

WSR 06-08-002
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed March 22, 2006, 1:30 p.m.]

The department of fish and wildlife withdraws proposed amendments to WAC 232-12-809 filed March 1, 2006, in WSR 06-06-100 and proposed amendments to WAC 232-28-336, filed March 1, 2006, in WSR 06-06-098.

Evan Jacoby
 Rules Coordinator

WSR 06-08-049
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed March 30, 2006, 1:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-094.

Title of Rule and Other Identifying Information: Chapter 388-825 WAC, Division of developmental disabilities service rules: WAC 388-825-228 How can short-term intervention services through the family support opportunities program help my family? and 388-825-254 Service need level rates.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on May 9, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by May 5, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 388-825-228 and 388-825-254 to implement section 205 (1)(e), chapter 518, Laws of 2005, the budgeted allotment for the vendor rate increase (VRI) and the individual provider hourly rate. These rates increase the service need levels for fiscal year 2006 and fiscal year 2007.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: ESSB 6090 section 205 (1)(a) Conference Budget (chapter 518, Laws of 2005).

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

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

Name of Agency Personnel Responsible for Drafting: Steve Brink, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3415; Implementation: Shirley Everard, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3444; and Enforcement: Doug Washburn, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impose any new costs on small businesses or small nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. These rules adjust rates pursuant to legislative standards and are exempt from a cost-benefit analysis under RCW 34.05.328 (5)(b)(vi).

March 23, 2006
 Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-22-068, filed 10/29/04, effective 11/29/04)

WAC 388-825-228 How can short-term intervention services through the family support opportunity program help my family? If your family is eligible, you may receive up to one thousand (~~four~~) five hundred dollars per year in short-term intervention(~~(s)~~) funding to pay for necessary services not otherwise available.

(1) Short-term intervention funds can be authorized for a one-time only need or for an episodic service need that occurs over a one-year period.

(2) Short-term intervention funding cannot be used for basic subsistence such as food or shelter but is available for those specialized costs directly related to and resulting from your child's disability.

AMENDATORY SECTION (Amending WSR 04-22-068, filed 10/29/04, effective 11/29/04)

WAC 388-825-254 Service need level rates. (1) The department shall base periodic service authorizations on:

(a) Requests for family support services described in WAC 388-825-252 (2) and (5);

(b) Service need levels. The amount of SSP (state supplementary payment) available to an individual will be included when calculating the monthly allocation of state family support dollars.

(c) Availability of family support funding;

(d) Authorization by a review committee, in each regional office, which reviews each request for service;

(e) The amounts designated in subsection (2)(a) through (d) of this section are subject to periodic increase if vendor rate increases are mandated by the legislature.

(2) Service need level lid amounts as follows:

(a) Clients designated for service need level one (WAC 388-825-256) may receive up to (~~one thousand one hundred ninety-eight dollars per month~~) fifteen thousand four hundred dollars per year or (~~two thousand four hundred sixty-two dollars~~) twenty-nine thousand four hundred dollars per

((month)) year if the individual requires licensed nursing care in the home:

(i) If an individual is receiving funding through Medicaid Personal Care or other DSHS in-home residential support, the maximum payable through family support shall be ~~((five hundred thirty-one))~~ six thousand eight hundred dollars per ~~((month))~~ year;

(ii) If the combined total of family support services at this maximum plus in-home support is less than ~~((one))~~ six thousand ((one)) eight hundred ((ninety-eight)) dollars additional family support can be authorized to bring the total to ~~((one))~~ six thousand ((one)) eight hundred ((ninety-eight)) dollars per year.

(b) Clients designated for service need level two (WAC 388-825-256) may receive up to ~~((four hundred seventy-two))~~ six thousand dollars per ~~((month))~~ year if not receiving funding through Medicaid Personal Care:

(i) If an individual is receiving funds through Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be ~~((two hundred sixty-five))~~ three thousand four hundred dollars per ~~((month))~~ year;

(ii) If the combined total of family support services at this maximum plus in-home support is less than ~~((four hundred seventy-two))~~ six thousand dollars, additional family support can be authorized to bring the total to ~~((four hundred seventy-two))~~ six thousand dollars per year.

(c) Clients designated for service need level three (WAC 388-825-256) may receive up to ~~((two hundred sixty-five dollars per month))~~ three thousand four hundred dollars per year provided the individual is not receiving Medicaid personal care. If the individual is receiving Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be one ~~((hundred thirty-three dollars per month))~~ thousand seven hundred dollars per year; and

(d) Clients designated for service level four (WAC 388-825-256) may receive up to one ~~((hundred thirty-three dollars per month))~~ thousand seven hundred dollars per year family support services.

(3) The department shall authorize family support services contingent upon the applicant providing accurate and complete information on disability-related requests.

(4) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

Title of Rule and Other Identifying Information: WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.

Hearing Location(s): 2901 Third Avenue, 4th Floor, Rainier Conference Room, Seattle, WA 98121, on May 11, 2006, at 9:30 a.m.

Date of Intended Adoption: May 11, 2006.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail larsomp@wsdot.wa.gov, fax (206) 515-3906, by May 4, 2006.

Assistance for Persons with Disabilities: Contact Judy Bell by May 8, 2006, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to establish a Puget Sound pilotage district annual tariff.

The proposed rule reflects a range of increases to be charged for pilotage services in the Puget Sound pilotage district for the 2006-2007 tariff year. The low end of the range is proposed by the Pacific Merchant Shipping Association (PMSA) and Polar Tankers, Inc. N.W. (PTI). The high end of the range and other specified increases and amendments are proposed by the Puget Sound pilots (PSP). At this time nearly all rates are at issue. Upon consideration of all written and oral testimony, it is anticipated that the adopted rule will reflect increases to most tariff categories that range between 1.59% and 28.3%. Exceptions include some tariff categories which are outside of this range and are specified below.

The low end of the range of increases is 1.59% applied across-the-board except for the *Transportation* and *Training Surcharge* categories to which no change is applied.

The high end of the range of increases is 28.3% applied across-the-board except for the following categories: *Boarding Fee, Trial Trips, Docking Delay-after anchoring, Sailing Delay, Slowdown, and Delayed Arrival-Port Angeles* to which a 100% increase is applied; and *Training Surcharge* to which no change is applied.

PSP proposes a modification to the cancellation portion only of the *Transportation* category as well the creation of a new category called *Draft Charges* for purposes of charging each vessel \$10 per foot of draft.

PMSA and PTI do not support the addition of *Draft Charges* or the amendment to the *Transportation - Cancellation* category; nor do they support the 100% increase to the categories for which PSP proposes be increased by as much.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on June 30, 2006. New rates must be set annually.

The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from the public and any other interested parties.

WSR 06-08-052

PROPOSED RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed March 31, 2006, 8:44 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Name of Proponent: Puget Sound pilots, Pacific Merchant Shipping Association, and Polar Tankers, Inc. N.W., private.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services. The application of the range of proposed increases is clear in the description of the proposal and its anticipated effects as well as the attached proposed tariff.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

March 30, 2006
Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 05-18-021, filed 8/29/05, effective 10/1/05)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours (~~October 1, 2005~~) July 1, 2006, through 2400 hours June 30, (~~2006~~) 2007.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section
Boarding fee:	((\$35.00)) <u>Low \$36.00</u> <u>High \$70.00</u>
Per each boarding/ deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA
LOA of tug + LOA of tow + beam of tow	Zone
Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.	
Waterway and bridge charges:	
Ships up to 90' beam:	

A charge of (~~(\$185.00)~~) Low \$188.00 High \$237.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of (~~(\$88.00)~~) Low \$89.00 High \$113.00 per bridge.

Ships 90' beam and/or over:

A charge of (~~(\$251.00)~~) Low \$255.00 High \$322.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of (~~(\$175.00)~~) Low \$178.00 High \$225.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Compass adjustment	((\$250.00)) <u>Low \$254.00</u> <u>High \$321.00</u>
Radio direction finder calibration	((\$250.00)) <u>Low \$254.00</u> <u>High \$321.00</u>
Launching vessels	((\$376.00)) <u>Low \$382.00</u> <u>High \$482.00</u>
Trial trips, 6 hours or less (Minimum ((\$708.00)) <u>Low \$720.00 High \$1,416.00</u>)	((\$118.00)) <u>Low \$120.00</u> <u>High \$236.00</u> per hr.
Trial trips, over 6 hours (two pilots)	((\$235.00)) <u>Low \$239.00</u> <u>High \$470.00</u> per hr.
Shilshole Bay – Salmon Bay	((\$147.00)) <u>Low \$149.00</u> <u>High \$189.00</u>
Salmon Bay – Lake Union	((\$114.00)) <u>Low \$116.00</u> <u>High \$146.00</u>
Lake Union – Lake Washington (plus LOA zone from Webster Point)	((\$147.00)) <u>Low \$149.00</u> <u>High \$189.00</u>
Cancellation charge	LOA Zone I

Cancellation charge—Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.)

LOA Zone II

Docking delay after anchoring: ((~~\$118.00~~))
Low \$120.00
High \$236.00
per hr.

Applicable harbor shift rate to apply, plus ((~~\$118.00~~))
Low \$120.00 High \$236.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$118.00~~)) Low \$120.00 High \$236.00 for every hour or fraction thereof.

Sailing delay: ((~~\$118.00~~))
Low \$120.00
High \$236.00
per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$118.00~~)) Low \$120.00 High \$236.00 for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.

Slowdown: ((~~\$118.00~~))
Low \$120.00
High \$236.00
per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ((~~\$118.00~~)) Low \$120.00 High \$236.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:

0 to 20,000 gross tons:
Additional charge to LOA zone mileage of ((~~\$0.0059~~))
Low \$.0060 High \$.0076 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of ((~~\$0.0606~~))
Low \$.0616 High \$.0777 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
In excess of 50,000 gross tons, the charge shall be ((~~\$0.0726~~)) Low \$.0738 High \$.0931 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Draft charges: Vessels shall pay a draft charge equal to Low \$0.00 High \$10.00 per foot of draft. Vessel draft shall be the draft at the time of the assignment and shall be rounded to the nearest half-foot.

Delayed arrival-Port Angeles: ((~~\$118.00~~))
Low \$120.00
High \$236.00
per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ((~~\$118.00~~)) Low \$120.00 High \$236.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ 157.00
Bangor	153.00
Bellingham	181.00
Bremerton	135.00
Cherry Point	209.00
Dupont	97.00
Edmonds	35.00
Everett	59.00
Ferndale	199.00
Manchester	131.00
Mukilteo	53.00
Olympia	125.00
Point Wells	35.00
Port Gamble	185.00
Port Townsend (Indian Island)	223.00
Seattle	15.00
Tacoma	71.00

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled (~~reporting~~)

time)) beginning of travel time to the job in which case transportation need only be paid one way.

- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

Training surcharge: Effective October 1, 2005 a surcharge of \$10 shall be added to each vessel assignment for establishing a fund for payment of pilot trainee stipends. Thereafter, an additional \$10 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each vessel assignment. The need for the initial \$10 surcharge will be reviewed at each regular tariff hearing, or at such other times as may be determined by the board, where need is determined by considering the funds then available for trainee stipends and the number of trainees projected to be in the training program receiving a stipend during the tariff year.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

(LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
Up to 449	183	283	484	721	971	1,260
450-459	190	289	487	732	987	1,266
460-469	192	292	494	744	1,000	1,272
470-479	199	300	501	759	1,003	1,274
480-489	204	306	503	773	1,009	1,280
490-499	207	310	510	787	1,022	1,286
500-509	218	315	518	797	1,029	1,294
510-519	219	321	523	808	1,040	1,298
520-529	222	332	530	812	1,049	1,310
530-539	229	336	537	821	1,066	1,324
540-549	233	341	549	830	1,083	1,336
550-559	237	353	553	842	1,091	1,349
560-569	246	367	564	849	1,102	1,362
570-579	251	370	566	853	1,113	1,371

(LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
580-589	261	376	579	860	1,120	1,385
590-599	274	384	583	864	1,136	1,401
600-609	283	395	590	867	1,150	1,408
610-619	299	399	602	871	1,161	1,420
620-629	311	405	606	881	1,174	1,437
630-639	326	411	613	883	1,185	1,449
640-649	338	421	620	885	1,194	1,460
650-659	362	428	631	893	1,209	1,475
660-669	369	433	636	897	1,222	1,487
670-679	382	444	643	913	1,236	1,495
680-689	388	452	652	921	1,247	1,510
690-699	399	459	661	937	1,260	1,541
700-719	417	474	673	949	1,284	1,559
720-739	442	487	690	962	1,310	1,585
740-759	459	510	703	971	1,336	1,613
760-779	477	527	721	987	1,362	1,635
780-799	501	550	732	1,000	1,385	1,663
800-819	521	566	747	1,006	1,408	1,688
820-839	537	586	764	1,022	1,437	1,708
840-859	560	610	778	1,033	1,459	1,737
860-879	581	631	793	1,060	1,487	1,762
880-899	602	649	808	1,085	1,510	1,788
900-919	619	670	822	1,112	1,541	1,813
920-939	638	690	842	1,136	1,557	1,837
940-959	661	708	854	1,161	1,585	1,860
960-979	677	729	869	1,185	1,613	1,888
980-999	699	747	884	1,209	1,635	1,911
1000-1019	741	795	923	1,273	1,711	1,994
1020-1039	761	818	952	1,310	1,763	2,053
1040-1059	784	838	980	1,349	1,814	2,114
1060-1079	808	868	1,008	1,390	1,870	2,177
1080-1099	832	893	1,039	1,430	1,925	2,242
1100-1119	856	919	1,070	1,474	1,982	2,310
1120-1139	882	948	1,103	1,517	2,042	2,378
1140-1159	908	975	1,135	1,563	2,104	2,450
1160-1179	935	1,003	1,169	1,610	2,166	2,523
1180-1199	964	1,034	1,203	1,658	2,232	2,599
1200-1219	993	1,065	1,239	1,708	2,298	2,676
1220-1239	1,022	1,097	1,276	1,759	2,366	2,756
1240-1259	1,052	1,129	1,314	1,811	2,438	2,838
1260-1279	1,083	1,162	1,353	1,865	2,511	2,923
1280-1299	1,115	1,198	1,394	1,922	2,585	3,011

(LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
1300-1319	1,149	1,232	1,435	1,978	2,663	3,101
1320-1339	1,184	1,269	1,479	2,038	2,742	3,194
1340-1359	1,218	1,308	1,523	2,098	2,824	3,290
1360-1379	1,255	1,346	1,568	2,162	2,908	3,387
1380-1399	1,292	1,386	1,616	2,226	2,995	3,490
1400-1419	1,331	1,428	1,662	2,292	3,085	3,594
1420-1439	1,370	1,471	1,713	2,361	3,178	3,702
1440-1459	1,412	1,515	1,765	2,431	3,273	3,812
1460-1479	1,452	1,560	1,816	2,504	3,371	3,926
1480-1499	1,496	1,606	1,871	2,578	3,471	4,043
1500 & Over	1,541	1,655	1,927	2,657	3,574	4,164

LOA Rate Schedule
Low Alternate

LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
<u>Up to 449</u>	<u>186</u>	<u>287</u>	<u>492</u>	<u>732</u>	<u>986</u>	<u>1,280</u>
<u>450 - 459</u>	<u>193</u>	<u>294</u>	<u>495</u>	<u>744</u>	<u>1,003</u>	<u>1,286</u>
<u>460 - 469</u>	<u>195</u>	<u>297</u>	<u>502</u>	<u>756</u>	<u>1,016</u>	<u>1,292</u>
<u>470 - 479</u>	<u>202</u>	<u>305</u>	<u>509</u>	<u>771</u>	<u>1,019</u>	<u>1,294</u>
<u>480 - 489</u>	<u>207</u>	<u>311</u>	<u>511</u>	<u>785</u>	<u>1,025</u>	<u>1,300</u>
<u>490 - 499</u>	<u>210</u>	<u>315</u>	<u>518</u>	<u>800</u>	<u>1,038</u>	<u>1,306</u>
<u>500 - 509</u>	<u>221</u>	<u>320</u>	<u>526</u>	<u>810</u>	<u>1,045</u>	<u>1,315</u>
<u>510 - 519</u>	<u>222</u>	<u>326</u>	<u>531</u>	<u>821</u>	<u>1,057</u>	<u>1,319</u>
<u>520 - 529</u>	<u>226</u>	<u>337</u>	<u>538</u>	<u>825</u>	<u>1,066</u>	<u>1,331</u>
<u>530 - 539</u>	<u>233</u>	<u>341</u>	<u>546</u>	<u>834</u>	<u>1,083</u>	<u>1,345</u>
<u>540 - 549</u>	<u>237</u>	<u>346</u>	<u>558</u>	<u>843</u>	<u>1,100</u>	<u>1,357</u>
<u>550 - 559</u>	<u>241</u>	<u>359</u>	<u>562</u>	<u>855</u>	<u>1,108</u>	<u>1,370</u>
<u>560 - 569</u>	<u>250</u>	<u>373</u>	<u>573</u>	<u>862</u>	<u>1,120</u>	<u>1,384</u>
<u>570 - 579</u>	<u>255</u>	<u>376</u>	<u>575</u>	<u>867</u>	<u>1,131</u>	<u>1,393</u>
<u>580 - 589</u>	<u>265</u>	<u>382</u>	<u>588</u>	<u>874</u>	<u>1,138</u>	<u>1,407</u>
<u>590 - 599</u>	<u>278</u>	<u>390</u>	<u>592</u>	<u>878</u>	<u>1,154</u>	<u>1,423</u>
<u>600 - 609</u>	<u>287</u>	<u>401</u>	<u>599</u>	<u>881</u>	<u>1,168</u>	<u>1,430</u>
<u>610 - 619</u>	<u>304</u>	<u>405</u>	<u>612</u>	<u>885</u>	<u>1,179</u>	<u>1,443</u>
<u>620 - 629</u>	<u>316</u>	<u>411</u>	<u>616</u>	<u>895</u>	<u>1,193</u>	<u>1,460</u>
<u>630 - 639</u>	<u>331</u>	<u>418</u>	<u>623</u>	<u>897</u>	<u>1,204</u>	<u>1,472</u>
<u>640 - 649</u>	<u>343</u>	<u>428</u>	<u>630</u>	<u>899</u>	<u>1,213</u>	<u>1,483</u>
<u>650 - 659</u>	<u>368</u>	<u>435</u>	<u>641</u>	<u>907</u>	<u>1,228</u>	<u>1,498</u>

LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
<u>660 - 669</u>	<u>375</u>	<u>440</u>	<u>646</u>	<u>911</u>	<u>1,241</u>	<u>1,511</u>
<u>670 - 679</u>	<u>388</u>	<u>451</u>	<u>653</u>	<u>928</u>	<u>1,256</u>	<u>1,519</u>
<u>680 - 689</u>	<u>394</u>	<u>459</u>	<u>662</u>	<u>936</u>	<u>1,267</u>	<u>1,534</u>
<u>690 - 699</u>	<u>405</u>	<u>466</u>	<u>672</u>	<u>952</u>	<u>1,280</u>	<u>1,566</u>
<u>700 - 719</u>	<u>424</u>	<u>482</u>	<u>684</u>	<u>964</u>	<u>1,304</u>	<u>1,584</u>
<u>720 - 739</u>	<u>449</u>	<u>495</u>	<u>701</u>	<u>977</u>	<u>1,331</u>	<u>1,610</u>
<u>740 - 759</u>	<u>466</u>	<u>518</u>	<u>714</u>	<u>986</u>	<u>1,357</u>	<u>1,639</u>
<u>760 - 779</u>	<u>485</u>	<u>535</u>	<u>732</u>	<u>1,003</u>	<u>1,384</u>	<u>1,661</u>
<u>780 - 799</u>	<u>509</u>	<u>559</u>	<u>744</u>	<u>1,016</u>	<u>1,407</u>	<u>1,689</u>
<u>800 - 819</u>	<u>529</u>	<u>575</u>	<u>759</u>	<u>1,022</u>	<u>1,430</u>	<u>1,715</u>
<u>820 - 839</u>	<u>546</u>	<u>595</u>	<u>776</u>	<u>1,038</u>	<u>1,460</u>	<u>1,735</u>
<u>840 - 859</u>	<u>569</u>	<u>620</u>	<u>790</u>	<u>1,049</u>	<u>1,482</u>	<u>1,765</u>
<u>860 - 879</u>	<u>590</u>	<u>641</u>	<u>806</u>	<u>1,077</u>	<u>1,511</u>	<u>1,790</u>
<u>880 - 899</u>	<u>612</u>	<u>659</u>	<u>821</u>	<u>1,102</u>	<u>1,534</u>	<u>1,816</u>
<u>900 - 919</u>	<u>629</u>	<u>681</u>	<u>835</u>	<u>1,130</u>	<u>1,566</u>	<u>1,842</u>
<u>920 - 939</u>	<u>648</u>	<u>701</u>	<u>855</u>	<u>1,154</u>	<u>1,582</u>	<u>1,866</u>
<u>940 - 959</u>	<u>672</u>	<u>719</u>	<u>868</u>	<u>1,179</u>	<u>1,610</u>	<u>1,890</u>
<u>960 - 979</u>	<u>688</u>	<u>741</u>	<u>883</u>	<u>1,204</u>	<u>1,639</u>	<u>1,918</u>
<u>980 - 999</u>	<u>710</u>	<u>759</u>	<u>898</u>	<u>1,228</u>	<u>1,661</u>	<u>1,941</u>
<u>1000 - 1019</u>	<u>753</u>	<u>808</u>	<u>938</u>	<u>1,293</u>	<u>1,738</u>	<u>2,026</u>
<u>1020 - 1039</u>	<u>773</u>	<u>831</u>	<u>967</u>	<u>1,331</u>	<u>1,791</u>	<u>2,086</u>
<u>1040 - 1059</u>	<u>796</u>	<u>851</u>	<u>996</u>	<u>1,370</u>	<u>1,843</u>	<u>2,148</u>
<u>1060 - 1079</u>	<u>821</u>	<u>882</u>	<u>1,024</u>	<u>1,412</u>	<u>1,900</u>	<u>2,212</u>
<u>1080 - 1099</u>	<u>845</u>	<u>907</u>	<u>1,056</u>	<u>1,453</u>	<u>1,956</u>	<u>2,278</u>
<u>1100 - 1119</u>	<u>870</u>	<u>934</u>	<u>1,087</u>	<u>1,497</u>	<u>2,014</u>	<u>2,347</u>
<u>1120 - 1139</u>	<u>896</u>	<u>963</u>	<u>1,121</u>	<u>1,541</u>	<u>2,074</u>	<u>2,416</u>
<u>1140 - 1159</u>	<u>922</u>	<u>991</u>	<u>1,153</u>	<u>1,588</u>	<u>2,137</u>	<u>2,489</u>
<u>1160 - 1179</u>	<u>950</u>	<u>1,019</u>	<u>1,188</u>	<u>1,636</u>	<u>2,200</u>	<u>2,563</u>
<u>1180 - 1199</u>	<u>979</u>	<u>1,050</u>	<u>1,222</u>	<u>1,684</u>	<u>2,267</u>	<u>2,640</u>
<u>1200 - 1219</u>	<u>1,009</u>	<u>1,082</u>	<u>1,259</u>	<u>1,735</u>	<u>2,335</u>	<u>2,719</u>
<u>1220 - 1239</u>	<u>1,038</u>	<u>1,114</u>	<u>1,296</u>	<u>1,787</u>	<u>2,404</u>	<u>2,800</u>
<u>1240 - 1259</u>	<u>1,069</u>	<u>1,147</u>	<u>1,335</u>	<u>1,840</u>	<u>2,477</u>	<u>2,883</u>
<u>1260 - 1279</u>	<u>1,100</u>	<u>1,180</u>	<u>1,375</u>	<u>1,895</u>	<u>2,551</u>	<u>2,969</u>
<u>1280 - 1299</u>	<u>1,133</u>	<u>1,217</u>	<u>1,416</u>	<u>1,953</u>	<u>2,626</u>	<u>3,059</u>
<u>1300 - 1319</u>	<u>1,167</u>	<u>1,252</u>	<u>1,458</u>	<u>2,009</u>	<u>2,705</u>	<u>3,150</u>
<u>1320 - 1339</u>	<u>1,203</u>	<u>1,289</u>	<u>1,503</u>	<u>2,070</u>	<u>2,786</u>	<u>3,245</u>
<u>1340 - 1359</u>	<u>1,237</u>	<u>1,329</u>	<u>1,547</u>	<u>2,131</u>	<u>2,869</u>	<u>3,342</u>
<u>1360 - 1379</u>	<u>1,275</u>	<u>1,367</u>	<u>1,593</u>	<u>2,196</u>	<u>2,954</u>	<u>3,441</u>
<u>1380 - 1399</u>	<u>1,313</u>	<u>1,408</u>	<u>1,642</u>	<u>2,261</u>	<u>3,043</u>	<u>3,545</u>
<u>1400 - 1419</u>	<u>1,352</u>	<u>1,451</u>	<u>1,688</u>	<u>2,328</u>	<u>3,134</u>	<u>3,651</u>
<u>1420 - 1439</u>	<u>1,392</u>	<u>1,494</u>	<u>1,740</u>	<u>2,399</u>	<u>3,229</u>	<u>3,761</u>
<u>1440 - 1459</u>	<u>1,434</u>	<u>1,539</u>	<u>1,793</u>	<u>2,470</u>	<u>3,325</u>	<u>3,873</u>

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
1460 - 1479	1,475	1,585	1,845	2,544	3,425	3,988
1480 - 1499	1,520	1,632	1,901	2,619	3,526	4,107
1500 & Over	1,566	1,681	1,958	2,699	3,631	4,230

LOA Rate Schedule
High Alternate

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
Up to 449	235	363	621	925	1,246	1,617
450 - 459	244	371	625	939	1,266	1,624
460 - 469	246	375	634	955	1,283	1,632
470 - 479	255	385	643	974	1,287	1,635
480 - 489	262	393	645	992	1,295	1,642
490 - 499	266	398	654	1,010	1,311	1,650
500 - 509	280	404	665	1,023	1,320	1,660
510 - 519	281	412	671	1,037	1,334	1,665
520 - 529	285	426	680	1,042	1,346	1,681
530 - 539	294	431	689	1,053	1,368	1,699
540 - 549	299	438	704	1,065	1,389	1,714
550 - 559	304	453	709	1,080	1,400	1,731
560 - 569	316	471	724	1,089	1,414	1,747
570 - 579	322	475	726	1,094	1,428	1,759
580 - 589	335	482	743	1,103	1,437	1,777
590 - 599	352	493	748	1,109	1,457	1,797
600 - 609	363	507	757	1,112	1,475	1,806
610 - 619	384	512	772	1,117	1,490	1,822
620 - 629	399	520	777	1,130	1,506	1,844
630 - 639	418	527	786	1,133	1,520	1,859
640 - 649	434	540	795	1,135	1,532	1,873
650 - 659	464	549	810	1,146	1,551	1,892
660 - 669	473	556	816	1,151	1,568	1,908
670 - 679	490	570	825	1,171	1,586	1,918
680 - 689	498	580	837	1,182	1,600	1,937
690 - 699	512	589	848	1,202	1,617	1,977
700 - 719	535	608	863	1,218	1,647	2,000
720 - 739	567	625	885	1,234	1,681	2,034
740 - 759	589	654	902	1,246	1,714	2,069
760 - 779	612	676	925	1,266	1,747	2,098
780 - 799	643	706	939	1,283	1,777	2,134

LOA	ZONE I Intra Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
800 - 819	668	726	958	1,291	1,806	2,166
820 - 839	689	752	980	1,311	1,844	2,191
840 - 859	718	783	998	1,325	1,872	2,229
860 - 879	745	810	1,017	1,360	1,908	2,261
880 - 899	772	833	1,037	1,392	1,937	2,294
900 - 919	794	860	1,055	1,427	1,977	2,326
920 - 939	819	885	1,080	1,457	1,998	2,357
940 - 959	848	908	1,096	1,490	2,034	2,386
960 - 979	869	935	1,115	1,520	2,069	2,422
980 - 999	897	958	1,134	1,551	2,098	2,452
1000 - 1019	951	1,020	1,184	1,633	2,195	2,558
1020 - 1039	976	1,049	1,221	1,681	2,262	2,634
1040 - 1059	1,006	1,075	1,257	1,731	2,327	2,712
1060 - 1079	1,037	1,114	1,293	1,783	2,399	2,793
1080 - 1099	1,067	1,146	1,333	1,835	2,470	2,876
1100 - 1119	1,098	1,179	1,373	1,891	2,543	2,964
1120 - 1139	1,132	1,216	1,415	1,946	2,620	3,051
1140 - 1159	1,165	1,251	1,456	2,005	2,699	3,143
1160 - 1179	1,200	1,287	1,500	2,066	2,779	3,237
1180 - 1199	1,237	1,327	1,543	2,127	2,864	3,335
1200 - 1219	1,274	1,366	1,590	2,191	2,948	3,433
1220 - 1239	1,311	1,407	1,637	2,257	3,036	3,536
1240 - 1259	1,350	1,449	1,686	2,324	3,128	3,641
1260 - 1279	1,389	1,491	1,736	2,393	3,222	3,750
1280 - 1299	1,431	1,537	1,789	2,466	3,317	3,863
1300 - 1319	1,474	1,581	1,841	2,538	3,417	3,979
1320 - 1339	1,519	1,628	1,898	2,615	3,518	4,098
1340 - 1359	1,563	1,678	1,954	2,692	3,623	4,221
1360 - 1379	1,610	1,727	2,012	2,774	3,731	4,346
1380 - 1399	1,658	1,778	2,073	2,856	3,843	4,478
1400 - 1419	1,708	1,832	2,132	2,941	3,958	4,611
1420 - 1439	1,758	1,887	2,198	3,029	4,077	4,750
1440 - 1459	1,812	1,944	2,264	3,119	4,199	4,891
1460 - 1479	1,863	2,001	2,330	3,213	4,325	5,037
1480 - 1499	1,919	2,060	2,400	3,308	4,453	5,187
1500 & Over	1,977	2,123	2,472	3,409	4,585	5,342

WSR 06-08-056
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket UT-053021—Filed March 31, 2006, 11:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-100.

Title of Rule and Other Identifying Information: Chapter 480-123 WAC, Universal service, eligible telecommunications carrier (ETC) designation and certification.

Hearing Location(s): Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on May 18, 2006, at 1:30 p.m.

Date of Intended Adoption: May 31, 2006.

Submit Written Comments to: Carole J. Washburn, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@wutc.wa.gov, fax (360) 586-1150, by May 3, 2006. Please include "Docket UT-053021" in your comments.

Assistance for Persons with Disabilities: Contact Mary De Young by May 16, 2006, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission has jurisdiction to designate certain common carriers as eligible telecommunications carriers (ETCs) so the carriers may receive federal universal service support funds. An ETC may request that the commission certify to the Federal Communications Commission (FCC) that the ETC is using federal support only for the intended purposes. The proposed rules delete the current rule that addresses certification to the FCC (WAC 480-120-399(2)). The proposed rules establish the requirements for designation as an ETC and create requirements for reporting and certification for those ETCs that request commission certification to the FCC that the ETC has used federal universal service support only for the intended purposes. The proposed rules will enable the commission to provide oversight of the use of federal universal service support funds.

Proposed Rule Topics: WAC 480-123-020 Definitions, 480-123-030 Contents of petition for designation as an eligible telecommunications carrier (ETC), 480-123-040 Approval of petitions for ETC designation, 480-123-050 Revocation of ETC designation, 480-123-060 Annual certification of ETCs, 480-123-070 Annual certifications and reports, 480-123-080 Annual plan for universal service support expenditures, and 480-123-999 Adoption by reference.

Reasons Supporting Proposal: The FCC has requested state commissions adopt rules for ETC designation and certification that will result in oversight of the use of federal universal service support by ETCs. The proposed rules respond to that request.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, 80.36.600, 80.36.610.

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

Name of Proponent: Washington utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Bob Shirley, 1300 Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1292; Implementation and Enforcement: Carole J. Washburn, 1300 Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1174.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

I. BACKGROUND: Eligible telecommunications carriers (ETCs) are common carriers designated by the Washington state utilities and transportation commission (UTC) to be eligible to receive funds from the federal universal service fund. ETCs in Washington receive approximately \$105 million in federal support each year. The Federal Communications Commission (FCC) adopted new rules for ETC designation and certification in 2005 and encouraged state commissions to adopt rules similar to those adopted by the FCC.¹ The purpose of the federal rules is to increase oversight of the use of federal support.

Designation as an ETC is the threshold requirement for a carrier to be eligible to draw funds from the federal universal service fund. For an ETC to continue receiving funds from one year to the next, it must obtain annual certification from the UTC to the FCC that the ETC will use federal universal service support funds only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

The essential effect of the rules is to require information from each ETC sufficient for the UTC to determine if it should certify to the FCC that the ETC uses federal high-cost support only for the intended purposes under law, and to determine how the funds benefit customers in Washington. The proposed rules seek less information on many topics from companies than the FCC requires of companies it certifies, but the proposed rules also seek information on portions of federal support that companies self-certify to the FCC.²

II. PROCESS: On May 10, 2005, the UTC invited comments on this topic from interested persons. After comments were received and reviewed, the UTC held a workshop attended by approximately fifteen representatives of stakeholders and the commissioners. The June 29, 2005, workshop was held in the afternoon and the discussion touched on all significant issues raised in the comments.

On July 14, 2005, the UTC held a workshop for the purpose of receiving a presentation by the National Exchange Carrier Association (NECA). Two commissioners attended and several representatives of stakeholders. The presentation described the process used by NECA to determine the amount of federal universal service fund support that will be received by rural telephone companies (all of which are ETCs in Washington).

On October 21, 2005, the UTC circulated draft rules and requested comments not later than November 14, 2005. On October 27, 2005, the UTC circulated a request for comments on the expected economic impact of the draft rules and requested responses not later than November 22, 2005.

On November 23, 2005, the UTC notified interested persons that a rule proposal would be presented to the commission on Wednesday, December 14, 2005. On December 6,

2005, the UTC notified interested persons that it would not hold a hearing for the purpose of receiving oral comments on a proposed rule on December 14, 2005, and invited further comment not later than January 27, 2006.

The UTC received thirteen responses to its request for economic information to use to develop a small business economic impact statement (SBEIS) for this rule making.

III. REGULATORY FAIRNESS ACT REQUIREMENTS: The Regulatory Fairness Act requires that an SBEIS include a brief description of the reporting, record-keeping, and other compliance requirements of the proposed rule. It also requires a list of the kinds of professional services needed to comply with the requirements of the proposed rule.

The proposed rules are based on comments, including economic impact information, made by stakeholders in response to draft rules. The proposed rules reflect the process of sharing a draft with stakeholders, reviewing their comments and economic impact information, and preparing proposed rules that contain changes intended to reduce the economic impact of the final rules on small business.

IV. BRIEF DESCRIPTION OF REQUIREMENTS IN DRAFT RULE:

Petitions for ETC Designation: The draft rules required a petition by a carrier that seeks ETC designation. This has been required of petitioners for ETC designation since 1997.

In addition to the petition, the draft rules required a substantive plan identifying the investments to be made with initial federal support during the first two years in which support is received, and a substantive description of how those expenditures will benefit customers.

The petition must also be accompanied by a general description of the area where the petitioner has customers, and an electronic (.shp format) map must be included. The map need only be general; it need not show the location of every line or cable but must, through shading or cross-hatching, describe the area where service is provided.

The petition must also contain factual information about the operations of the petitioner that demonstrate the petitioner's ability to remain functional in emergency situations. Finally, the petition must include information that demonstrates the petitioner will comply with the applicable consumer protection and service quality standards.

Annual Certification Reports in Draft Rules: To obtain annual certification under the draft rule, each ETC would have had to:

- Certify that the ETC has used federal funds only for the intended purposes.
- Report on the use of federal funds and benefits to customers.
- Complete a service outage report.
- Report on failures to provide service.
- Report on complaints per 1,000 handsets or lines.
- Certify compliance with applicable service quality standards.
- Certify the ability to function in emergency situations.
- Certify that advertising requirements were met.
- Provide an annual plan for universal service support expenditures and update electronic-format maps every three years.

All of these requirements in the draft rule would be new requirements for ETCs in Washington except for the certification that funds will be used only for the purposes intended under law and the certification that advertising requirements have been met. However, the draft rules described the advertising requirement for the first time.

V. COST OF COMPLIANCE WITH DRAFT RULES: The UTC must analyze the cost of compliance with the draft rules by small businesses, and compare the compliance costs of small businesses to large businesses. The UTC conducts this analysis with the company information provided in response to a questionnaire.

The UTC received economic information from three businesses that are not small businesses. Qwest, one of the state's largest businesses, responded but did not assign dollar values to anticipated efforts that would be required by the draft rules. CenturyTel responded and did assign dollar values to anticipated efforts that would be required. Mashell Telecom also assigned dollar values to anticipated efforts that would be required under the draft rules.

Cost Information: The remaining responses were from small businesses that are ETCs and that will be required to comply with the rules in order to continue receiving federal support.

The reported estimate of increases in cost for small businesses and large businesses to operate in compliance with the draft rules is \$1,177,541.³ The small business share is \$385,936. If all small and large businesses that are ETCs had responded, the amounts would be greater.

The bulk of the expected increase in costs is for advertising and map making. Small businesses expect the cost of compliance with the advertising standard to be \$74,925 and the cost to produce electronic maps to be \$178,707. The remaining \$132,304 is divided between the cost of producing a report on the use of funds received and producing a plan for how funds will be used.

Small businesses supplied information sufficient to permit the UTC to calculate cost-per-year estimates and a cost-per-employee estimate. The range of cost-per-year estimates for small businesses is from \$4,000 per year to \$65,848. See *Table I*. The range of costs-per-employee estimates for small businesses is from \$900 to \$6,280. *Id.*

The variation in costs per year is explained by differences in the number of maps a company would be required to produce under the draft rule, the number of daily newspapers published where ETCs operate, and the stated range of anticipated hourly labor costs (i.e., from \$30 to \$85 per hour⁴) to perform tasks required by the draft rules.

These reported costs for small businesses can be compared to those provided by two large businesses that responded. CenturyTel reported costs of \$419,313 per year and Mashell reported \$36,292 per year. The costs per employee for these businesses are, respectively, \$1,165 and \$637.

According to these data, the average cost-per-employee for small businesses is more than double that of large businesses.

	Small Business	Large Business
Average cost-per-year	\$24,000	\$227,000
Average cost-per-employee	\$2,255	\$1,093

Professional Services: Most respondents identified an anticipated need to hire outside consultants to prepare reports and maps. Those costs are reflected in the cost-per-year and cost-per-employee amounts.

Although the reported data are highly inconsistent and therefore do not appear to be particularly reliable, they suggest that the cost impacts on small businesses may be disproportionate. Accordingly, the UTC found it should consider carefully the possible changes to the draft rules that would reduce the costs of compliance.

VI. MITIGATION: The Regulatory Fairness Act lists six methods for reducing the cost on small businesses.

- (a) Reducing, modifying, or eliminating substantive regulatory requirements.
- (b) Simplifying, reducing, or eliminating record-keeping and reporting requirements.
- (c) Delaying compliance timetables.
- (d) Reducing or modifying fine schedules for noncompliance.
- (e) Any other mitigation techniques.

The UTC's proposed rules reflect consideration of these approaches and modification of the draft rules to mitigate the compliance costs for small and large businesses.

Reductions, modifications, and elimination of substantive requirements:

- The proposed rules eliminate the requirement in draft WAC 480-123-0020 (1)(f) that wireline carriers must submit electronic maps with their petition to be designated as an ETC.
- The proposed rules eliminate prescriptive advertising requirements from draft WAC 480-123-0060(7) in favor of a restatement of existing obligations under federal statute and rule.
- The proposed rules eliminate the requirement in draft WAC 480-123-0070(3) that wireline carriers must submit electronic maps every three years.

Simplifications, reductions, and elimination of record-keeping and reporting requirements:

- Proposed WAC 480-123-0020 (1)(f) clarifies that maps from wireless petitioners must only show signal location and not the location of plant and equipment.
- Proposed WAC 480-123-0060 clarifies that reports must only include activity in Washington.
- The requirement to provide copies of all reports provided to the National Exchange Carrier Association (NECA) is removed from draft WAC 480-123-0060 (1)(a) thereby reducing the reporting requirements for ETCs that receive federal high-cost funds based on past investment and past expenses.
- Draft WAC 480-123-0060(2) is changed by eliminating reporting for carriers subject to certain other

commission reporting rules related to local service outages.

- Draft WAC 480-123-0060(3) is changed by eliminating reporting for carriers subject to certain other commission reporting rules related to failure to provide service.
- Draft WAC 480-123-0060(4) is changed by eliminating reporting on complaints to ETCs and complaints to the commission. There is also a change with respect to categories of complaints which reduces or eliminates an additional record-keeping requirement.

Delayed compliance timetables: The compliance timetable is set by the FCC. Certification is required on or before October 1 each year.

Reduction or modification of fine schedules for noncompliance: There are not fine schedules in the proposed rules.

Other mitigation: All economic mitigation is reported in the preceding sections.

Summary of Effect of Mitigation on Costs of Compliance: For wireline small businesses, removal of the mapping requirement will eliminate what was reported to be a substantial expense. As a percentage of total expenses anticipated by those ETCs that responded, elimination of the mapping requirement reduces the reported cost of compliance by 44%.

The elimination of prescriptive advertising requirements in favor of a restatement of federal advertising requirements eliminates all incremental advertising costs because ETCs under the proposed rule will need to do no more than is already required by federal law. This eliminates 43% of the reported compliance costs.

The remaining reporting requirements represent 13% of the reported costs of compliance. As indicated above, that reporting requirement is reduced by changes to several of the rules. Thus, the UTC estimates mitigation included in the proposed rules, relative to the draft rules, results in a reduction of at least 87% of the anticipated cost of compliance.

Table 1

Company	Cost Estimates	# of Employees	Cost per Employee
BCTS	\$4,000	3	\$1,333
CenturyTel	\$419,313	360	\$1,165
Hood Canal	\$38,132	23	\$1,658
Inland	\$36,100	30	\$1,203
Kalama	\$36,898	14	\$2,636
Mashell	\$36,292	57	\$637
Pend Oreille	\$29,750	5	\$5,950
St. John	\$31,402	5	\$6,280
Tenino	\$36,692	16	\$2,293
Toledo	\$65,848	20	\$3,292
WeaveTel	\$4,500	5	\$900
Western			
Wahkiakum	\$25,643	16	\$1,603

¹ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket 96-45, FCC 05-46 (rel. March 17, 2005).

² "In addition, state commissions may require the submission of any other information that they believe is necessary to ensure that ETCs are operating in accordance with applicable state and federal requirements." *Id.*, ¶ 71.

³ Qwest did not provide a dollar amount for compliance activities; however, it provided sufficient information about anticipated additional advertising costs to estimate it would spend \$336,000 more per year in advertising.

⁴ We accept the costs provided to us notwithstanding the substantial range of the hourly rates quoted. For example, Western Wahkiakum reported a "loaded labor rate" of \$29.97 per hour and Tenino reported a "loaded labor rate" of \$85.00 per hour.

A copy of the statement may be obtained by contacting the Washington Utilities and Transportation Commission, Records Center, Docket No. UT-053021, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1234, fax (360) 586-1150, e-mail records@wutc.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

March 31, 2006
Carole J. Washburn
Executive Secretary

Chapter 480-123 WAC

~~((FEDERAL))~~ UNIVERSAL SERVICE ~~((CONTRACTS))~~

NEW SECTION

WAC 480-123-020 Definitions. As used in WAC 480-123-030 through 480-123-080:

"Applicant" means any person applying to an ETC for new service or reconnection of discontinued service.

"Eligible telecommunications carrier" and "ETC" mean a carrier designated by the commission as eligible to receive support from federal universal service mechanisms in exchange for providing services supported by federal universal service mechanisms.

"Facilities" means for the purpose of WAC 480-123-030 (1)(b) any physical components of the telecommunications network that are used in the transmission or routing of the services that are supported by federal universal service mechanisms.

".shp format" means the format used for creating and storing digital maps composed of shape files capable of being opened by the computer application ArcGIS™.

"Service outage" means a significant degradation in the ability of an end user to establish and maintain a channel of voice communications as a result of failure or degradation in the performance of a communications provider's network. Planned service interruptions with a duration of less than five minutes that occur between the hours of 12:00 midnight and 5:00 a.m. are not included in this definition.

"Substantive" means sufficiently detailed and technically specific to permit the commission to evaluate whether federal universal service support has had, or will have, specific benefits for customers. For example, information about investments and expenses that will provide, increase, or

maintain service quality, signal coverage, or network capacity, and the number of customers that benefit, and how they will benefit from such investments and expenses is sufficient to enable evaluation.

NEW SECTION

WAC 480-123-030 Contents of petition for eligible telecommunications carriers. (1) Petitions for designation as an ETC must contain:

(a) A description of the area or areas for which designation is sought;

(b) A statement that the carrier will offer the services supported by federal universal service support mechanisms throughout the area for which it seeks designation, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC);

(c) A description of how it will provide each supported service;

(d) A substantive plan of the investments to be made with initial federal support during the first two years in which support is received and a substantive description of how those expenditures will benefit customers;

(e) A statement that the carrier will advertise the availability of services supported by federal universal service mechanisms, including advertisement of Lifeline programs that is reasonably calculated to reach low-income consumers not receiving discounts;

(f) For wireless petitioners, a map in .shp format of proposed service areas (exchanges) with locations of cell sites and shading to indicate where the carrier provides commercial mobile radio service signals;

(g) Information that demonstrates its ability to remain functional in emergency situations including a description of how it complies with WAC 480-120-411 or, for a wireless carrier, information that demonstrates it has at least four hours of back up battery power at each cell site, back up generators at each microwave hub, and at least five hours back up battery power and back up generators at each switch; and

(h) Information that demonstrates that it will comply with the applicable consumer protection and service quality standards of chapter 480-120 WAC or, for a wireless carrier, a commitment to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. Information regarding the version of the CTIA code adopted and where to obtain it is set forth in WAC 480-123-999.

(2) A company officer must submit the petition in the manner required by RCW 9A.72.085.

NEW SECTION

WAC 480-123-040 Approval of petitions for eligible telecommunications carriers. The commission will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.

NEW SECTION

WAC 480-123-050 Revocation of eligible telecommunications carrier designation. Subject to notice and an opportunity to be heard, the commission may decline to grant annual certification, and may revoke, suspend, or modify a designation granted previously if it determines that the ETC has failed to comply with the requirements of section 47 U.S.C. Sec. 214(e) or any other conditions imposed by the commission.

NEW SECTION

WAC 480-123-060 Annual certification of eligible telecommunications carriers. (1) Each ETC seeking certification by the commission of the ETC's use of federal high-cost funds pursuant to 47 C.F.R. §§ 54.307, 54.313, or 54.314 must request certification by July 31 each year. The ETC must, as a part of the request, certify that it will use federal high-cost universal service fund support only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended. The certification must be submitted by a company officer in the manner required by RCW 9A.72.085.

(2) The commission will certify an ETC's use of federal high-cost universal service fund support, pursuant to 47 C.F.R. §§ 54.307, 54.313, or 54.314 only if the ETC complies with the requirements in WAC 480-123-070, and the ETC demonstrates that it will use federal high-cost funds only for the provision, maintenance, and upgrading of facilities and services for which the support is intended through the requirements of WAC 480-123-080.

NEW SECTION

WAC 480-123-070 Annual certifications and reports. Not later than July 31 of each year, every ETC that receives federal support from any category in the federal high-cost fund must certify or report as described in this section. The certifications and reports are for activity related to Washington state in the period January 1 through December 31 of the previous year. A company officer must submit the certifications in the manner required by RCW 9A.72.085.

(1) **Report on use of federal funds and benefits to customers.**

(a) For an ETC that receives support based only on factors other than the ETC's investment and expenses, the report must provide a substantive description of investments made and expenses paid with support from the federal high-cost fund.

For ETCs that receive any support based on the ETC's investment and expenses, the report must provide a substantive description of investment and expenses the ETC will report as the basis for support from the federal high-cost fund.

(b) Every ETC must provide a substantive description of the benefits to consumers that resulted from the investments and expenses reported pursuant to (a) of this subsection.

(2) **Local service outage report.** ETCs not subject to WAC 480-120-412 and 480-120-439(5) are required to report local service outages pursuant to this subsection. The

report must include detailed information on every local service outage thirty minutes or longer in duration experienced by the ETC. The report must include:

- (a) The date and time of onset and duration of the outage;
- (b) A brief description of the outage and its resolution;
- (c) The particular services affected, including whether a public safety answering point (PSAP) was affected;
- (d) The geographic areas affected by the outage;
- (e) Steps taken to prevent a similar situation in the future; and
- (f) The estimated number of customers affected.

(3) **Report on failure to provide service.** ETCs not subject to WAC 480-120-439 are required to report failures to provide service pursuant to this subsection. The report must include detailed information on the number of requests for service from applicants within its designated service areas that were unfulfilled for the reporting period. The ETC must also describe in detail how it attempted to provide service to those applicants.

(4) **Report on complaints per one thousand handsets or lines.** The report must provide separate totals for the number of complaints concerning local service related issues that the ETC's customers made to the Federal Communications Commission, or the consumer protection division of the office of the attorney general of Washington. The report must also generally describe the nature of the complaints and outcome of the carrier's efforts to resolve the complaints.

(5) **Certification of compliance with applicable service quality standards.** Certify that it met substantially the applicable service quality standard found in WAC 480-123-030 (1)(h).

(6) **Certification of ability to function in emergency situations.** Certify that it had the ability to function in emergency situations based on continued adherence to the standards found in WAC 480-123-030 (1)(g).

(7) **Advertising certification, including advertisement on Indian reservations.** Certify it has publicized the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service, including residents of federally recognized Indian reservations within the ETC's designated service area. Such publicity should include advertisements likely to reach those who are not current customers of the ETC.

NEW SECTION

WAC 480-123-080 Annual plan for universal service support expenditures. (1) Not later than July 31 of each year, every ETC that receives federal support from any category in the federal high-cost fund must report on:

(a) The planned use of federal support related to Washington state that will be received during the period October 1 of the current year through the following September; or

(b) The planned investment and expenses related to Washington state which the ETC expects to use as the basis to request federal support from any category in the federal high-cost fund.

(2) The report must include a substantive plan of the investments and expenditures to be made with federal sup-

port and a substantive description of how those investments and expenditures will benefit customers.

(3) As part of the filing required by this section to be submitted in 2007, and at least once every three years thereafter, a wireless ETC must submit a map in .shp format that shows the general location where it provides commercial mobile radio service signals.

NEW SECTION

WAC 480-123-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

(2) The commission adopts the version in effect on September 9, 2003.

(3) This publication is referenced in WAC 480-123-020 (contents of petition for eligible telecommunications carriers).

(4) Copies of the CTIA Consumer Code for Wireless Service are available at http://www.ctia.org/wireless_consumers/consumer_code/.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-120-399 Access charge and universal service reporting. ((+)) Intrastate mechanism reporting.

((+)) (1) Until legislation creating a new universal service fund is adopted and effective and commission rules to implement the legislation are adopted and effective, each Class A company in the state of Washington and the Washington Exchange Carrier Association, must provide annually:

((+)) (a) The actual demand units for the previous calendar year for each switched access tariff rate element (or category of switched access tariff rate elements, both originating and terminating) it has on file with the commission.

((+)) (b) Primary toll carriers (PTCs) must file, in addition to the information required in (a)((+)) of this subsection, the annual imputed demand units for the previous calendar year that the company would have had to purchase from itself if it had been an unaffiliated toll carrier using feature group D switched access service (including intraLATA and interLATA, both originating and terminating demand units). For purposes of this subsection, a PTC means a local exchange company offering interexchange service(s) to retail customers using feature group C switched access service for the origination or termination of any such service(s).

((+)) (2) The report containing the information required in ((a of this)) subsection (1) of this section must be filed by July 1 of each year.

((+)) (3) Each company providing information required by this section must include complete work papers and sufficient data for the commission to review the accuracy of the report.

~~((2) Annual state certification requirements for interstate (federal) mechanism. Each eligible telecommunications carrier (ETC) in Washington receiving federal high-cost universal service support funds must provide the following to the commission not later than August 31 of each year:~~

~~(a) A certification that, during the calendar year preceding the year in which certification is made, the ETC provided the supported services required by 47 U.S.C. § 214(e) and described in the commission order granting it ETC status;~~

~~(b) A certification that, during the calendar year preceding the year in which certification is made, the ETC advertised the availability of supported services and the charges for them as required by 47 U.S.C. § 214(e) and as described in the commission order granting it ETC status;~~

~~(c) A certification that funds received by it from the federal high-cost universal service support fund will be used only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended;~~

~~(d) The amount of all federal high-cost universal service fund support received for the calendar year preceding the year in which the filing must be made (this includes, but is not limited to, high-cost loop support or "HCL," local switching support or "LSS," long-term support or "LTS," interstate access support or "IAS," and interstate common line support or "ICLS");~~

~~(e) The loop counts on which federal high-cost universal service support was based for support received during the calendar year preceding the year in which the filing must be made;~~

~~(f) The certifications required in (a) through (e) of this subsection must be made in the same manner as required by RCW 9A.72.085-.)~~

WSR 06-08-058

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. A-050802—Filed March 31, 2006, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-091.

Title of Rule and Other Identifying Information: Chapter 480-07 WAC, Procedural rules.

Hearing Location(s): Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on May 18, 2006, at 1:30 p.m.

Date of Intended Adoption: May 18, 2006.

Submit Written Comments to: Carole J. Washburn, Washington State Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@wutc.wa.gov, fax (360) 586-1150, by May 4, 2006. Please include "Docket No. A-050802" in your comments.

Assistance for Persons with Disabilities: Contact Mary De Young by May 16, 2006, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission repealed and replaced its former procedural rules, chapter 480-09 WAC on January 1, 2004, and adopted new chapter 480-07 WAC, Procedural rules, to be effective on that same date. Since the new rules became effective, commission staff and persons who conduct business before the commission have identified and suggested discrete changes to certain rules and the need for new rules that could ease compliance and promote efficiency in the conduct of business before the commission. The commission, to accomplish these goals, proposes changes to reflect the result of its review and its responses to comments received. The detailed changes are shown in legislative format on the commission's web site at www.wutc.wa.gov/050802.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

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

Name of Proponent: Washington state utilities and transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Ann Rendahl, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1144; Implementation and Enforcement: Carole Washburn, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not result in or impose an increase in costs. Because there will not be any increase in costs resulting from the proposed rule changes, a small business economic impact statement is not required under RCW 19.85.030(1).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

March 31, 2006
Carole J. Washburn
Executive Secretary

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-110 ((Exceptions)) Exemptions from and modifications to ((the rules in this chapter)) commission rules; ((special)) conflicts involving rules. (1) **Exceptions and modifications.** The commission may grant an exemption from or modify the application of ((these)) its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes. The commission may modify the application of procedural rules in this chapter during a particular adjudication consistent with other adjudicative decisions, without following the process identified in subsection (2) of this section.

(2) Process.

(a) How to request an exemption to or modification of a rule. To request a rule exemption or modification, a person must file with the commission a written petition identifying the rule for which an exemption is sought, and provide a full explanation of the reason for requesting the exemption.

(b) Commission process. The commission will assign the petition a docket number, if it does not arise in an existing docket, and will schedule the petition for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the open meeting or hearing when the commission will consider the petition.

(c) Standard for consideration. The commission may consider whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the underlying purposes of the rule.

(d) Disposition. The commission will enter an order granting or denying the petition, or setting it for hearing.

~~((2) Special))~~ **(3) Conflicts involving rules.** ~~((When))~~ In the event of conflict between these rules and statutes, or rules in other chapters of Title 480 of the Washington Administrative Code, ~~((apply))~~ applicable to specific types of companies regulated by the commission or to others who may conduct business with the commission, or to particular proceedings, those statutes or special rules govern ~~((if they conflict with the rules in this chapter)).~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-125 Physical address; telephone; ((facsimile)) fax; web portal; e-mail; internet. The information included in this section is current at the time of rule adoption, but may change. Current information and additional contact information are available on the commission's internet site, in person at the commission offices, or by a telephone call to the commission's main public number.

((Physical address; address for U.S. mail or hand-delivery	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive S.W. P.O. Box 47250 Olympia, WA 98504-7250
Telephone (general)	360-664-1160
Telephone (commission-records center)	360-664-1234
Telefacsimile (commission-records center)	360-586-1150
Electronic mail (commission-records center)	records@wute.wa.gov
Internet	www.wute.wa.gov))

Location and mailing address:	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive S.W. P.O. Box 47250 Olympia, WA 98504-7250
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Telephone:	
Public number	360-664-1160
Records center number	360-586-1234
Consumer inquiries, comments and informal complaints	1-800-562-6150
Fax:	
Public and records center	360-586-1150
Web portal (see instructions for use in WAC 480-07-025)	www.wutc.wa.gov/e-filing
Records center e-mail	records@wutc.wa.gov
Internet web site	www.wutc.wa.gov

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-140 Communicating with the commission. (1) **Scope of rule.** This rule includes general requirements for effective communication with the commission. ~~((Communications that concern rule-making proceedings, adjudicative proceedings, or public records requests must also conform to specific requirements as follows:~~

~~(a) In rule-making proceedings, WAC 480-07-143 and Part II of this chapter.~~

~~(b) In adjudicative proceedings, WAC 480-07-145 and Part III of this chapter.~~

~~(c) For public records requests, chapter 42.17 RCW and chapter 480-04 WAC.)~~

The commission encourages use of the commission's records center web portal for filing and submitting documents with the commission. Customers of regulated companies who have a complaint about their service provider are encouraged to contact the commission as described in WAC 480-07-910. Anyone wishing to comment on a matter before the commission may submit comments by telephone, letter, fax, e-mail or by using the comment form available on the commission's web site.

(a) **Electronic filing, limitations.** You may file documents electronically using the commission's records center web portal (see WAC 480-07-025) if you are submitting documents that are not part of an adjudicative proceeding. Examples include registration applications, tariffs, contracts, price lists, rule-making comments, and comments on open meeting items. Electronic filing means the commission accepts the electronic version of the document as the official filing and does not require a paper copy of the documents.

(b) **Electronic submission, adjudications.** You may submit documents electronically using the commission's records center web portal (see WAC 480-07-025) or e-mail if you are submitting documents in an adjudicative proceeding. Electronic submission means the commission allows submission of electronic versions of documents, but requires a paper copy of the document as the official filing.

(c) **Electronic filing of public records requests.** You may file requests for public records electronically using the commission's records center web portal (see WAC 480-07-

025). You do not have to file a paper copy of the public records request if it is filed electronically.

(d) Use of e-mail for electronic filing or submission. The commission encourages you to use its records center web portal for filing or submitting electronic documents, because it is more reliable and secure than e-mail. If you are unable to use the records center web portal to file or submit documents, the commission will accept a filing or submission received via e-mail addressed to the records center.

(e) You must also comply with other requirements when submitting certain documents, as shown below.

<u>Submissions in these dockets or filings:</u>	<u>Must comply with these rules:</u>
<u>Rule-making dockets</u>	<u>This rule, WAC 480-07-143, and Part II of this chapter</u>
<u>Adjudicative dockets</u>	<u>This rule, WAC 480-07-145, and Part III of this chapter, plus any requirements in the specific adjudication</u>
<u>Utility tariffs and telecommunications price lists and contracts</u>	<u>This rule, chapter 480-80 WAC, and WAC 480-07-14X</u>
<u>Transportation tariffs and time schedules</u>	<u>This rule, WAC 480-07-14X; and</u>
(i) <u>For auto transportation companies</u>	<u>Chapters 480-30 and 480-149 WAC;</u>
(ii) <u>For commercial ferry companies</u>	<u>Chapters 480-51 and 480-149 WAC;</u>
(iii) <u>For solid waste collection companies</u>	<u>Chapter 480-70 WAC</u>
<u>For public records requests</u>	<u>Chapter 42.17 RCW and chapter 480-04 WAC</u>

(2) **Content of letters and ~~((electronic mail)) e-mail messages to the commission.~~** Letters and ~~((electronic mail)) e-mail~~ messages to the commission should include only one subject.

(3) **Where to send letters and ~~((electronic mail)) e-mail messages.~~** WAC 480-07-125 includes the commission's mailing address and other contact information current at the time of rule publication. Persons who communicate with the commission are encouraged to do so by ~~((electronic mail)) e-mail~~ to the commission's records center. The commission's internet site includes current and additional contact information.

(4) **Cover letters.** Persons sending or filing documents with the commission must include a cover letter with the filing, unless the letter or document is one page and includes the information identified in subsection (5) of this section.

(5) **Identification of sender; identification of permit, license, or certificate; identification of proceeding.** The following requirements will make sure your message to the commission is delivered promptly to the person or persons who need to receive it, and to allow a prompt response. If you do not include the necessary information, we may not be

able to promptly handle your message or provide a prompt response.

(a) **Identification of sender.** All persons who communicate with the commission must provide their full name and are asked to provide a mailing address, ~~((and are asked to provide))~~ telephone, ~~((facsimile, and electronic mail))~~ fax, and e-mail address to assist the commission in responding. Persons who communicate with the commission on behalf of a business, organization, or other entity must state their name and title or position, the name of the entity on whose behalf the communication is sent, in addition to the contact information described above.

(b) **Identification of permit, license, or certificate held by sender.** Any person or entity that holds a commission-issued permit, license, or certificate must identify the permit, license, or certificate number (if any), including the exact name under which the authority is held, when communicating with the commission concerning the permit, license, or certificate.

(c) **Identification of proceeding.** Persons who communicate with the commission concerning a formal commission proceeding (e.g., rule-making or adjudication) must identify the proceeding to the best of their ability, including the docket number and name of the proceeding, if known.

~~((5))~~ (6) Electronic file format requirements. The commission requires electronic versions of all documents filed with the commission, including confidential versions of documents that include confidential information.

(a) **Acceptable media.** ~~((Electronic submissions may be provided by electronic mail.))~~ You may submit documents electronically through the commission's records center web portal, by e-mail((+)) file attachment addressed to the commission's records center, or submitted to the records center on a 3 1/2 inch IBM formatted high-density disk or compact disc (CD)((-The submission must be)) labeled with the docket number of the proceeding, if a number has been assigned, the name of the ~~((party))~~ entity and the name of the individual submitting the document, and a description of the contents (e.g., "direct evidence," "motion to dismiss," etc.) ~~((and the date filed)).~~

(b) **Acceptable format.** ~~((The commission prefers to receive))~~ Electronic versions of all documents ((in Word or WordPerfect file format supplemented by a copy in Adobe Acrobat (i.e., .pdf) file format created directly from the word processing software used for the original document)), including confidential versions of documents that include confidential information, must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format, so that spreadsheets displaying results of calculations based on formulas include all formulas, and do not include locked, password protected or hidden cells. Redacted versions of electronic documents that mask confidential information should be filed exclusively in .pdf format. Parties ((that)) who cannot create Adobe Acrobat files directly ((are requested to)) must provide a copy of the document converted to Adobe Acrobat via scanning or other available technology.

(c) **File naming conventions.** Electronic files must be named in a way that describes the file contents. Parties should

use the format identified in the following examples, identifying the docket number, the nature of the document, and the party submitting it:

Testimony	UE-010101 Smith direct (name of party) (date) UT-020202 Jones rebuttal attachment 1 (name of party) (date)
Motions	UG-030303 motion to dismiss (name of party) (date) UW-040404 answer to motion to dismiss (name of party) (date)
Correspondence	TG-010203 (name of party) request for continuance (date)

(d) **Acceptable organization.** Each party must submit all files to meet a single deadline at the same time and in the same message or diskette. When a party submits two or more files at the same time, the files must be organized into folders, and the party must provide a printed index. The index may be included in a cover letter or provided as an attachment to a cover letter. The index also must be provided in the form of an electronic file.

Example:

Folder and diskette name	I. U-020304 (name of party) direct evidence (date)
Subfolders	A. U-020304 (name of party) (name of witness) direct (date) B. U-020304 (name of party) (name of witness) direct (date)
Files	1. U-020304 (name of witness) direct (name of party) (date) 2. U-020304 (name of witness) direct att 1 (name of party) (date)

NEW SECTION

WAC 480-07-141 Receiving and filing a document is not acceptance. The commission assigns docket numbers to a filing or proceeding and receives documents under docket numbers for administrative purposes and not to denote legal acceptance. Receipt of a document for filing in a docket, or the assignment of a docket number to a document, does not mean that the commission has accepted the document, or waived any deficiencies that would allow the commission to reject the document. After a receiving a document, the commission may address any deficiencies in the document, may require the document to be resubmitted with deficiencies corrected, or may reject the document.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-143 Submitting documents in rule-making proceedings. (1) **Scope of rule.** This section governs communications to the commission in rule-making proceedings ~~((including letters, electronic mail messages, com-~~

ments, and other documents)). These rules are in addition to the general rules for communicating with the commission in WAC 480-07-140.

(2) **Submitting comments.** All written comments submitted in a rule making must be addressed to the commission secretary.

(3) **Methods for delivering comments and other communications.** The commission encourages communication through the records center web portal rather than e-mail or fax.

(a) *Through the web portal.* A person may submit comments in rule-making proceedings by sending them to the commission through the records center web portal, without providing a paper copy.

(i) *How to use the web portal.* Persons using the web portal to submit filings should first view the following web page: www.wutc.wa.gov/e-filing.

(ii) *When deemed received.* A document submitted through the web portal is deemed received only when the sender receives notification from the commission that the document has been received. Documents received electronically through the commission's records center web portal after 5:00 p.m. are not considered officially received or filed until the next business day.

~~((a))~~ (b) *By ~~(electronic mail)~~ e-mail message or ~~(telefacsimile)~~ fax.* A person may submit comments in rule-making proceedings by ~~(electronic mail message)~~ e-mail~~(s)~~, e-mail file attachment, or ~~(telefacsimile)~~ fax transmission without ~~(supplementation by)~~ providing a paper copy.

(i) *Where to send electronic documents.* All ~~(electronic mail)~~ e-mail and ~~(telefacsimile)~~ fax transmissions made under this rule should be directed to the commission's records center as noted in WAC 480-07-125. Courtesy or informational copies may be sent to other ~~(electronic mail)~~ e-mail addresses or ~~(telefacsimile)~~ fax numbers for individual commission staff members. When a person files a document by e-mail or ~~(telefacsimile)~~ fax, the document should not be sent more than once except to cure transmission or receiving errors.

(ii) *When deemed received.* A document submitted by ~~(electronic mail or telefacsimile)~~ e-mail or fax is deemed received only when the entire ~~(electronically mailed)~~ document sent via e-mail successfully reaches the commission's records center electronic mailbox or ~~(telefacsimile)~~ fax machine. Documents wholly or partly received ~~(electronically)~~ via fax or e-mail in the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day when they are stamped with the date and time.

~~((b))~~ (c) *By mail or hand delivery (e.g., courier delivery service).* A person may submit comments or otherwise communicate with the commission concerning rule-making proceedings by mail or by hand delivery (e.g., courier delivery service).

(i) *When deemed received/ filed.* A document submitted in a rule-making proceeding by mail or hand delivery is deemed received or filed when physically received by the commission records center and stamped with the date and time. Documents delivered to the commission's records cen-

ter after 5:00 p.m. are not considered officially received or filed until the next business day when they are stamped with the date and time.

(ii) *Electronic file supplement.* The commission encourages parties who submit written comments in rule-making proceedings to supplement any paper filing delivered by mail or courier with an electronic version, as specified in WAC 480-07-140(5).

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-145 Filing documents in adjudicative proceedings. (1) **Scope of rule.** This section governs communications to the commission by parties in adjudicative proceedings ~~((including letters and electronic mail messages, pleadings, and other documents))~~. These rules are in addition to the general rules for communicating with the commission in WAC 480-07-140 and any requirements in a specific adjudication.

(2) **Mail or hand delivery service is required for all documents.** Parties to adjudicative proceedings before the commission must file original, signed documents and paper copies by mail or hand delivery (e.g., courier delivery service) as provided in this rule to satisfy official filing requirements and meet the commission's administrative needs. The commission may provide for the expedited exchange of documents among parties and the commission by ~~(electronic mail)~~ e-mail and ~~(telefacsimile)~~ fax transmission when necessary for process requirements in individual adjudicative proceedings.

(a) *When deemed received/ filed.* A document submitted in an adjudicative proceeding is officially received for filing only when the original document, including the required certificate of service under subsection (6) of this section, and the required number of copies, are physically received at the commission's records center by mail or in-hand delivery and stamped with the date and time. The date-stamped time will determine whether a document meets any deadline that applies and will determine the timing of any later deadlines based on filing. Documents that are delivered to the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day when they are stamped with the date and time.

(b) *Exception for documents offered and received at hearing.* When authorized by the presiding officer in an adjudicative proceeding before the commission, a document may be officially received for purposes of the proceeding when the presiding officer receives the document for the record at hearing. The presiding officer may also require that a copy be filed in the commission records center.

(c) *Where to mail/deliver.* All written communications mailed or hand-delivered to the commission must be addressed to the commission's secretary at the address specified in WAC 480-07-125.

(d) *Filings must be supplemented by an electronic version of the document.* Parties filing pleadings, motions, pre-filed testimony and exhibits, and briefs must supplement their filing by submitting the document in electronic form, as spec-

ified in WAC 480-07-140(5), unless excused from the obligation by the presiding officer.

(3) Number of copies; failure to file sufficient number of copies.

(a) **Number of copies.** Unless the commission specifies a different number of copies, every pleading, motion, response, and brief submitted to the commission by mail or courier must be filed with twelve copies. A party for whom providing the required number of copies would be a hardship may describe the hardship and request permission to file fewer copies.

(b) **Failure to file sufficient number of copies.** If a person files fewer than the required number of copies of a document, the commission may reject the filing or the commission may make the additional copies for distribution and processing within the commission. If the commission makes copies to meet the total number required, the commission will bill the filing person at a rate of thirty cents per page, plus sales tax. This rate compensates for the loss of the worker's attention to assigned duties, the unscheduled use of equipment, and the cost of materials.

(4) **Filing and service are separate requirements.** Filing documents with the commission under this rule and service of the documents to parties under WAC 480-07-150 are both required in all adjudicative proceedings. Filing a document with the commission does not constitute service upon the assistant attorney general or any other party. Likewise, service upon the assistant attorney general does not constitute a filing with the commission.

(5) **Service and certificate of service are required.** Filing a pleading, motion, response, or brief with the commission in an adjudicative proceeding is not complete unless service has been made upon all parties to the proceeding pursuant to WAC 480-07-150. Service must be confirmed by submitting with the filing a valid certificate of service, or its equivalent, as provided in WAC 480-07-150(9).

(6) ~~(Electronic mail or telefacsimile)~~ Web portal, e-mail or fax transmission may be used to expedite the filing process, when authorized.

(a) **When permitted; paper copy ~~(supplementation is)~~ required.** The presiding officer may, ~~(when necessary because of the demands of schedule or other sufficient reason)~~ at a prehearing conference or by notice or order, provide a one-day extension of the paper filing requirement by authorizing ~~(electronic mail)~~ submission through the web portal, e-mail or ~~(telefacsimile)~~ fax for delivery of documents on the date established for paper filing under the procedural schedule in an adjudicative proceeding subject to the following conditions:

(i) **Timing.** Electronic submissions must be completed by 3:00 p.m. on the date established for filing. The commission encourages the use of the web portal rather than via e-mail or fax.

(ii) **Paper copy ~~(supplementation is)~~ required.** The commission must physically receive the original and required number of copies by 12:00 noon on the first business day following the filing deadline established under the procedural schedule.

~~((iii))~~ (iii) **Exact copy is required.** The original and paper copies of the document delivered to the commission on

the day following the filing deadline must conform exactly in form and content to the electronic version or the document will not be considered to have been timely filed and may be rejected on that basis.

~~((iii))~~ (iv) **Authorization for electronic submission must be indicated.** ~~((A))~~ If you submit electronic documents ~~(submitted)~~ to the commission through the commission's records center web portal, by ~~(electronic mail)~~ e-mail message or ~~(facsimile)~~ by fax transmission on a filing deadline date without providing the original document by that date, you must ~~(be accompanied by)~~ include an electronic message or ~~(facsimile)~~ fax cover sheet that states the ~~(basis for)~~ authority to ~~(effect timely filing and service)~~ submit the document electronically through the web portal, by ~~(electronic mail)~~ e-mail, or ~~(telefacsimile)~~ fax transmission without simultaneously filing a paper copy.

~~((iv))~~ (v) **Simultaneous delivery to all parties is required.** All electronic documents submitted to the commission through the web portal, by ~~(electronic mail)~~ e-mail message or ~~(facsimile)~~ fax transmission on a filing deadline date must be simultaneously delivered to all parties by ~~(electronic message)~~ e-mail or ~~(telefacsimile)~~ fax. At the discretion of the presiding officer, you may be required to provide courtesy copies via e-mail to the presiding officer, commission staff, or others. Service by other required means is not excused, subject to the requirements of WAC 480-07-150.

(b) **Where to send ~~(electronic mail)~~ web portal or e-mail message or ~~(telefacsimile)~~ fax transmission.** Persons using the commission's records center web portal to submit filings electronically should access the following web page: www.wutc.wa.gov/e-filing. All ~~(electronic mail)~~ e-mail and ~~(telefacsimile)~~ fax transmissions made under this rule should be directed to the commission's records center. Courtesy or informational copies may be sent to other ~~(electronic mail)~~ e-mail addresses ~~(or telefacsimile numbers)~~ for the presiding officer or other individual commission ~~(staff members)~~ employees. When a person ~~(files)~~ submits a document through the web portal, by ~~(telefacsimile or)~~ e-mail or fax, the document should not be sent more than once except to cure transmission or receiving errors.

(c) **When deemed received.** A document submitted through the commission's records center web portal is deemed received only when the sender receives notification from the commission that the document has been received. A document submitted by ~~(electronic mail or telefacsimile)~~ e-mail or fax is deemed received when the entire document successfully reaches the commission's records center electronic mailbox or ~~(telefacsimile)~~ fax machine. Documents submitted electronically are not considered officially received or filed until the commission receives the original and paper copies the next business day, when they are stamped with the date and time received.

(7) **Additional rules regarding adjudicative proceedings.** Rules relating to general rate proceedings (subpart B of this chapter) and abbreviated adjudicative proceedings (subpart C of this chapter) govern filing requirements in those proceedings.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-150 Service of documents in adjudicative proceedings. (1) **Service defined.** Service means sending or delivering, in accordance with ~~((pertinent law))~~ RCW 34.05.010(19) and this rule, documents relating to commission adjudications, to parties and any other persons to whom service may be required by statute. Service includes the formal exchange of documents among parties to adjudicative proceedings.

(2) **Designation of person to receive service.**

(a) Each party in an adjudicative proceeding must designate one person to receive service of documents relating to the adjudication.

(b) When any party has appeared by an attorney or other authorized representative in a proceeding before the commission, the party must name the representative, or one of the representatives if there is more than one, to receive service of documents. Service on the representative is valid service upon the party, except as provided by law. When an individual party appears on his or her own behalf, she or he must be the person to receive service.

(c) The commission may order different arrangements for service in individual proceedings.

(3) **Person to receive service of orders.**

~~((a))~~ The commission will serve orders in adjudicative proceedings upon the party's representative and also on the party. Therefore, all parties must provide ~~((their))~~ the name(s) and mailing address(es) of a person for purposes of direct service on the party.

~~((b) In addition, parties that are a partnership, corporation, association, governmental subdivision or other entity other than an individual person must designate one individual person within their business, government unit, or organization to receive service of commission orders.)~~

(4) **Contact information.** Each party must supply the following information about every individual that it names to receive service:

- (a) Name.
- (b) Mailing address.
- (c) Telephone number.
- (d) ~~((Facsimile))~~ Fax number, if any.
- (e) ~~((Electronic mail))~~ E-mail address, if any.
- (f) Relationship to party (e.g., executive director, etc.).

(5) **Waiver of service by statutory means.**

(a) A party may choose to waive service of process by means of personal delivery, United States mail or parcel delivery service, in whole or in part, and elect to receive service by electronic means.

(b) Waiver must be made in writing, filed with the commission, and must specify alternative methods of communication to effect service. Alternates may include ~~((telefacsimile or electronic mail))~~ fax or e-mail.

(c) Waiver excuses other parties and the commission from the obligation to use methods of service specified in rule or statute.

Neither the commission nor any party is foreclosed from making service by statutory means upon a party ~~((that))~~ who has waived such service, and timely service by a method

specified in the statute will satisfy legal requirements for service when it is used.

(6) **Service by parties.** Parties must serve documents by delivering one copy to each other party by one of the following methods:

- (a) In person.
- (b) By mail, properly addressed with first class postage prepaid.
- (c) By delivering to a commercial parcel delivery company and making or arranging payment of the pertinent fee.
- (d) By ~~((telefacsimile))~~ fax transmission, if other forms of service are waived.
- (e) By ~~((electronic mail))~~ e-mail, if other forms of service are waived.

(7) **Service by commission.** All notices, complaints, petitions, findings of fact, opinions, and orders required to be served by the commission may be served by one of the following methods:

- (a) In person.
- (b) By mail, properly addressed with first class postage prepaid.
- (c) By commercial parcel delivery company.
- (d) By ~~((telefacsimile))~~ fax transmission, when a paper copy is simultaneously mailed or tendered to a commercial parcel delivery company.
- (e) By ~~((electronic mail))~~ e-mail if originals are simultaneously mailed or sent by commercial parcel delivery company.

(8) **When service is deemed complete.** Unless otherwise ordered by the commission in a particular proceeding, service is complete as follows:

- (a) Service by mail is complete when a copy of the document is properly addressed, stamped, and deposited in the United States mail.
- (b) Service by commercial parcel delivery is complete when the parcel delivery company accepts a copy of the document for delivery.
- (c) Service by ~~((telefacsimile))~~ fax transmission is complete when the party receiving service has filed a waiver of service by statutory methods and requested service by ~~((telefacsimile))~~ fax transmission, and the document being served has been entirely received in the recipient's ~~((telefacsimile))~~ fax machine.

(d) Service by ~~((electronic mail))~~ e-mail is complete when the party receiving service has filed a waiver of service by statutory methods and requested service by ~~((electronic mail))~~ e-mail, and the document being served has been entirely received at the recipient's designated ~~((electronic mail))~~ e-mail address.

(e) Proof of service by electronic means. Parties effecting service by electronic means are encouraged to secure electronic return receipts or otherwise confirm successful delivery.

(9) **Certificate of service.** Each person filing a pleading, motion, response, or brief with the commission must include with or on the original of the document either an acknowledgment of service or the following certificate:

"I hereby certify that I have this day served this document upon all parties of record in this proceeding, by (state the

authorized method of service selected under WAC 480-07-150)"

Dated at this day of

(signature of person who served the document)

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-160 Confidential information. The commission will provide special handling and limited access to confidential information submitted in compliance with this rule. This rule applies to any information submitted under a claim of confidentiality. See also, WAC 480-07-420 regarding protective orders in adjudicative proceedings.

(1) Implementation.

(a) **Designated official.** The commission's secretary is the designated official responsible for the commission's compliance with the Public Records Act, chapter 42.17 RCW, and for the implementation of this rule. The secretary may designate one or more persons to serve as public records officer to assist in the implementation and application of this rule.

(b) **Provider.** Any person who submits information to the commission or commission staff under a claim of confidentiality pursuant to this rule is a "provider," as that term is used in this rule.

(c) **Requester.** Any person who submits a request for public records under the Public Records Act, chapter 42.17 RCW, or a data request in an adjudicative proceeding is a "requester," as that term is used in this rule.

(2) Confidential information defined. Confidential information is information that meets any of the following criteria:

(a) Information protected from inspection or copying under an exemption from disclosure requirements under the Public Records Act, chapter 42.17 RCW.

(b) Information protected under the terms of a protective order in an adjudicative proceeding.

(c) Valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information, as provided in RCW 80.04.095.

(3) How to designate and seek protection of confidential information under this section. A provider may claim the protection of this rule only by strict compliance with the following requirements. Any failure to comply with these requirements may result in the submission not being accepted as one including confidential information ~~((and its return to the provider for correction and resubmission))~~.

(a) **Contents.** The provider must submit the claim of confidentiality in writing, in the same form (i.e., paper or electronic) and at the same time the information claimed to be confidential is submitted. The provider must state the basis upon which the information is claimed to be confidential under this rule, and must identify any person (other than the provider) that might be directly affected by disclosure of the confidential information.

(b) Marking.

(i) **Paper copies.** When the document is in paper format, and there is no protective order in place, the provider must

clearly mark each copy with the designation "confidential per WAC 480-07-160." The provider must place this mark on the first page of a multipage document and each specific page where the provider claims there is confidential information.

(ii) **Electronic copies.** When the document is in electronic format, such as an ~~((electronic mail))~~ e-mail message, or a word processing or spreadsheet file, the "confidential per WAC 480-07-160" mark must be inserted in the e-mail message or on the disk or diskette, on the first page in the file and on each page that the provider claims contains confidential information. The provider must follow the requirements in (c) of this subsection and the format requirements in WAC 480-07-140(6) for submitting electronic documents.

(iii) **Protective order, if any, must be cited.** If the provider submits confidential information under the provisions of a protective order, the "confidential" ~~((mark))~~ identification on the disk, diskette, or e-mail, on the first page of the document and each page that includes confidential information must state: "Confidential per protective order in WUTC Docket No. [insert docket number]." When the provider submits confidential information in an electronic format, the provider must mark the document as with a paper copy and follow the format requirements in WAC 480-07-140(6) for submitting electronic documents.

(c) **Unredacted version under seal; redacted version.** The provider must submit a complete version of the document as to which confidentiality is claimed ~~((as a complete document))~~ (unredacted version) and a complete version of the document with the information claimed to be confidential masked (redacted version). If the provider submits a document under a claim that the entire document is confidential, the provider may submit only the first page of the redacted version if the page indicates that the entire document is claimed to contain confidential information.

(i) **Sealing and labels.** The redacted version must be so labeled and submitted along with a set of any confidential documents. The confidential unredacted version must be so labeled and submitted in a sealed envelope or similar wrapping. ((The unredacted version must be so labeled and submitted in a sealed envelope or similar wrapping.)) A party submitting multiple confidential documents must collate the documents into sets and, to the extent feasible, must enclose each set of confidential documents in a separate envelope and each set of highly confidential documents for filing in a ~~((single))~~ separate envelope.

(ii) **Marking.** Each page of the unredacted version that includes information claimed to be confidential must be printed on yellow or canary paper with the confidential information ~~((marked by contrasting highlighter or, if))~~ clearly designated (e.g., by highlighting text with no more than twenty percent grey shading, outlining the confidential information in a box or border, or setting the text off with asterisks). Similarly, each page of the unredacted version that contains information designated highly confidential under a protective order, must be printed on light blue paper with the highly confidential information ((marked by contrasting highlighter. The redacted version must be submitted in the same manner as a document as to which confidentiality is not claimed)) clearly designated (e.g., by highlighting text with no more than twenty percent grey shading, outlining the

highly confidential information in a box or border or setting the text off with asterisks). The redacted version will be available for public disclosure if requested. The redacted and unredacted versions must have the same pagination and line numbering.

(iii) *Number of copies.* The provider must submit an original and *three* redacted copies of each confidential or highly confidential document and an original and *twelve* copies of the unredacted version of each confidential or highly confidential document, unless the commission has required a different number of copies to be filed. If a document includes both confidential and highly confidential information, the provider may submit unredacted copies including both the confidential and highly confidential information in the same document.

(4) **Challenges to claims of confidentiality.** The commission or a party to a proceeding in which a provider submits a document with a claim of confidentiality may challenge the claim. When a challenge is made, the commission will provide an opportunity to respond before ruling on the challenge. If a confidential designation is challenged, the provider of the confidential information bears the burden to show that part or all of a document should be protected from disclosure under chapter 42.17 RCW, RCW 80.04.095, or a protective order. The commission may express its ruling orally on the record in an adjudicative proceeding, or in a written order.

(5) **Requests for "confidential" information.** Subject to subsections (6) and (7) of this section, the commission will release information designated confidential in response to a request properly filed under the following requirements:

(a) The requester must submit a written request to the commission's secretary on a form provided by the commission or in a letter containing equivalent supporting information, including the requester's name and address and the name and address of any organization on whose behalf or for whose benefit the request is being made. The requester must state whether the information sought is to be used for a commercial purpose.

(b) The request must be sufficiently specific to allow the secretary to readily identify the document or other material that contains the requested information. Following receipt of a request for confidential information, the secretary will notify the requester of any deficiency in the request. The requester is required to correct the request and resubmit it pursuant to this rule. The commission will take no action pending resubmission.

(c) If a requester wants copies of any documents identified in response to a request, the requester must make arrangements with the commission's secretary to pay the designated copying fees, if any.

(6) **Informal resolution.** When the secretary and the requester agree that the secretary can satisfy the requester's need for information ((can be satisfied)) without disclosing confidential information, the secretary will make the information available.

(7) **Notice of request for information designated confidential; release of information designated confidential.** The commission will provide written notice of any request for information designated confidential to the provider and

any person identified by the provider as a person who might be directly affected by release of the information. This is to permit any person asserting confidentiality or who might be affected by the release of the information to invoke the statutory procedures for securing a court order to protect the records from disclosure or to take similar steps in compliance with a protective order in an adjudicative proceeding. The commission will issue such notice not more than two days after the requested materials are located and it determines that they contain information claimed to be confidential. The commission will send a copy of the notice to the requester at the same time it sends a copy to the provider.

If the provider consents in writing to the release of the information, or does not restrain disclosure by way of court order within ten days following notice, the commission will consider the information public, remove the confidential designation from its files, and release the information to the requester.

(8) **Judicial intervention by the commission.** The commission need not assist any person in seeking or resisting judicial intervention, but may participate in any such proceeding.

(9) **Designation or redesignation of confidential information in adjudications.** At the conclusion of an adjudication in which confidentiality was asserted as to documents or portions of the record, the party originally asserting confidentiality must, no later than the time for filing briefs or, if no briefs are filed, within ten days after the close of the record, do the following:

(a) Verify the accuracy of all confidential designations in the record and in the exhibit list for the proceeding, and submit any proposed corrections or changes. Absent a statement of proposed corrections or changes, the designations in the record and in the exhibit list are final and will be changed only if the party asserting confidentiality voluntarily removes, or is required to remove, a confidential designation. If there is conflict between designations, the designation that is least restrictive to public access will be adopted.

(b) File a redacted and unredacted copy of any document as to which confidentiality was asserted during the proceeding but which is not reflected in the record or exhibit list as a document designated confidential.

(c) File an unredacted version of any document designated as confidential during the proceeding, but as to which the party claiming confidentiality wishes to remove the confidential designation, or as to which the confidential designation was terminated by order. In the case of briefs, testimony, and similar documents, the authoring party must file the unredacted version.

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

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-220 Monitoring rule-making proceedings; lists of interested persons. (1) **Internet.** The commission's internet web site includes information about pending rule-making proceedings.

(2) **Mail or ((electronic mail)) e-mail.** The commission maintains lists of persons interested in potential rule-making proceedings that concern particular regulated industries and other areas of potential interest. The commission sends notice of rule-making proceedings to persons on these lists. Any person may request in writing that the commission's records center include them on the relevant list or lists for the person's area(s) of interest. The commission may establish a fee for this service.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-340 Parties—General. (1) ~~((Defined; appearance requirement. A "party" is a person (meaning an individual, partnership, corporation, association, governmental subdivision or unit, or public or private organization or entity of any character) that has complied with all requirements for establishing and maintaining party status in any proceeding before the commission.))~~ **Definitions.**

(a) **Person.** As defined in RCW 34.05.010(14), a "person" is any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(b) **Party.** As defined in RCW 34.05.010(12), a "party" is a person to whom the agency action is specifically directed; or a person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(c) **Interested person.** An "interested person" is a person who does not want to participate in a pending docket as a party or is not permitted to do so, but who wants to receive copies of all documents that the commission serves on parties, simultaneous with service, as well as documents served on the commission and other parties. The commission may charge for this service.

(d) **Docket monitor.** A "docket monitor" is a person who would like to receive orders entered by the commission in a docket.

(2) **Appearance requirement.** The commission will not grant party status to a person who fails to appear at the earliest prehearing conference, if one is held, or hearing session, if there is no prehearing conference, unless the party is excused from appearing by the presiding officer or shows good cause for failing to timely appear. The commission staff and the public counsel section of the attorney general's office become parties to an adjudicative proceeding for all purposes upon entering an appearance. When the commission's regulatory staff appears as a party it will be called "commission staff" or "staff." When the public counsel section of the office of the Washington attorney general appears as a party, it will be called "public counsel."

~~((2))~~ (3) **Classification of parties.** Parties to proceedings before the commission will be called applicants, complainants, petitioners, respondents, intervenors, or protestants, according to the nature of the proceeding and the relationship of the parties, as follows:

(a) **Applicants.** Persons applying for any right or authority that the commission has jurisdiction to grant are "applicants."

(b) **Complainants.** Persons who file a formal complaint with the commission are "complainants." When the commission commences an adjudicative proceeding on its own complaint seeking to impose a penalty or other sanction based upon alleged acts or omissions of the respondent, the commission is the "complainant."

(c) **Petitioners.** Persons petitioning for relief other than by complaint are "petitioners."

(d) **Movants.** Persons filing a motion for relief are "movants" or "moving parties."

(e) **Respondents.** Persons against whom any formal complaint, petition, or motion is filed are "respondents." In general rate proceedings that are set for hearing on the commission's motion or complaint, the party seeking to increase rates is a "respondent," but bears the burden of proof in the proceeding pursuant to RCW 80.04.130 or 81.04.130.

(f) **Intervenors.** Persons, other than the original parties, who are permitted to appear and participate as parties are "intervenors."

(g) **Protestants.** Persons that file a protest to oppose an application are "protestants."

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-360 Parties—Master service list. The commission will maintain a master service list for each adjudicative proceeding ~~((, which)).~~ It will be available upon request and ~~((which to the extent))~~ if feasible ~~((will be available)),~~ on the commission's web site. The list will contain the name, mailing address, e-mail address, telephone number, and ~~((telefacsimile))~~ fax number of each party to the proceeding and of each party's representative. The commission will provide a courtesy copy to the parties of contact information provided by each party at the initial prehearing conference. ~~((Each party must also designate one person to receive service of all documents that are required to be served and may request that additional representatives receive courtesy service. Parties that are individuals will be individually served with all commission orders entered in the proceeding. Parties that are a partnership, corporation, association, governmental subdivision or unit, or public or private organization or entity of any character, must designate an individual within their organization for purposes of service of commission orders.))~~ Parties must designate persons to receive service in accordance with WAC 480-07-150.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-380 Motions that are dispositive—Motion to dismiss; motion for summary determination; motion to withdraw. (1) **Motion to dismiss.**

(a) **General.** A party may move to dismiss another party's claim or case on the asserted basis that the opposing party's pleading fails to state a claim on which the commission may grant relief. The commission will consider the standards applicable to a motion made under CR 12 (b)(6) and 12(c) of the Washington superior court's civil rules in ruling on a motion made under this subsection. If a party presents an affidavit or other material in support of its motion to dismiss,

and the material is not excluded by the commission, the commission will treat the motion as one for summary determination as provided in subsections (2) and (3) of this section.

(b) **Time for filing motion to dismiss.** A party that opposes a pleading must file any motion directed to the pleading no later than the time the responsive pleading is due, or within twenty days after the pleading is served, whichever time is less, unless the party shows good cause for delay. Filing a motion to dismiss a pleading, or seeking a similar remedy, does not extend the time for answering the pleading.

(c) **Response.** A party who opposes a written motion to dismiss may file a response within ten days after service of the motion, or at such other time as may be set by the commission or the presiding officer. The commission may allow oral argument.

(2) Motion for summary determination.

(a) **General.** A party may move for summary determination of one or more issues if the pleadings filed in the proceeding, together with any properly admissible evidentiary support (e.g., affidavits, fact stipulations, matters of which official notice may be taken), show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. In considering a motion made under this subsection, the commission will consider the standards applicable to a motion made under CR 56 of the Washington superior court's civil rules.

(b) **Time for filing motion for summary determination.** A party must file any motion for summary determination at least thirty days before the next applicable hearing session, unless the commission establishes by order a different specific date for any such motion to be filed.

(c) **Response.** A party ~~((that))~~ who answers a motion for summary determination must file its answer and any cross-motion for summary determination within twenty days after the motion is served, unless the commission establishes ~~((by order))~~ a different specific date for a response to be filed.

(d) **Continuance not automatic.** Filing a motion for summary determination will not automatically stay any scheduled procedures. The commission may order a continuance of any procedure and may order that an oral or written response to a motion for summary determination be made at a time that is consistent with any established hearing schedule in the proceeding.

(3) Motion to withdraw. A party may withdraw from a proceeding only upon permission granted by the commission in response to a written motion if:

(a) In the case of a matter initiated by a tariff filing, the commission has entered a complaint and order suspending the filing; or

(b) In all other cases, the commission has issued a hearing notice or otherwise commenced an adjudicative proceeding pursuant to chapter 34.05 RCW.

The commission will grant a party's motion to withdraw from a proceeding when the party's withdrawal is in the public interest.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-395 Pleadings, motions, and briefs—Format requirements; citation to record and authorities; verification; errors; construction; amendment. (1) **Format.** All pleadings, motions, and briefs must meet the following format requirements:

(a) **Paper size; legibility; margins.** All pleadings, motions, and briefs must be:

- Submitted on three-hole punched (oversize holes are preferred) 8 1/2 x 11 inch paper.

- Presented in double-spaced, 12-point ~~((type))~~, palatino, times new Roman, or an equally legible serif font, with footnotes in the same font and of at least 10-point type.

- Presented with paragraphs numbered.

- Printed with margins at least one inch from each edge of the page.

Documents that are electronically filed must meet these requirements when printed.

(b) **Length.** Pleadings, motions, and briefs must not exceed sixty pages (exclusive of exhibits, appended authorities, supporting affidavits and other documents). The presiding officer may alter the page limit, either shortening or lengthening the number of pages allowed, considering the number and complexity of the issues.

(c) **Organization.** Every pleading, motion, and brief must be organized as follows:

(i) **Caption.** At the top of the first page must appear the phrase, "before the Washington utilities and transportation commission." On the left side of the page, the caption of the proceeding must be set out or, if no caption exists, the following: "In the matter of the (complaint, petition, motion, etc.) of (name of the pleading party) for (identify relief sought)." On the right side of the page, opposite the caption, the pleading party must include the docket number if one has been assigned, identify the name of the document (e.g., petition, motion, answer, reply, etc., of (role of party: E.g., petitioner, respondent, protestant, etc., and name of the party if more than one party has the same role in the proceeding)). The caption also must briefly state the relief sought (e.g., "petition for an accounting order"; "motion for continuance").

(ii) **Body of pleading.** The body of the pleading must be set out in numbered paragraphs. The first paragraph must state the pleading party's name and address and if it is the party's initial pleading, the name and address of its representative, if any. The second paragraph must state all rules or statutes that the pleading puts in issue. Succeeding paragraphs must set out the statement of facts relied upon in a form similar to complaints in civil actions before the superior courts of this state. The concluding paragraphs must state the relief the pleading party requests.

(iii) **Body of motion.** A motion must include the following information:

(A) **Relief requested.** A statement of the specific relief the commission is requested to grant or deny.

(B) **Statement of facts.** A succinct statement of the facts that the moving party contends are material to the requested remedy.

(C) *Statement of issues.* A concise statement of the legal issue or issues upon which the commission is requested to rule.

(D) *Evidence relied upon.* Any evidence on which the motion or opposition is based must be specified. Any affidavits, depositions or portions of affidavits or depositions relied upon must be specified. If a party relies on affidavits, deposition transcripts, or documentary evidence, the party must quote the cited material verbatim or attach a photocopy of relevant pages to an affidavit that identifies and verifies the documents. Parties should highlight or otherwise clearly identify the portions of the cited evidence upon which they place substantial reliance.

(iv) *Body of brief.* ~~((The commission may require))~~ Unless excused by the presiding officer, the parties must include in their briefs a table of contents in outline format. The commission may require parties to organize their briefs according to a common outline. The presiding officer, in consultation with the parties, will establish the elements of ~~((the))~~ any common outline taking into account the issues in the proceeding, the parties' preferences, and the commission's needs.

(v) *Citation to record.* Portions of the record relied on or quoted in the body of a brief must be cited using footnotes.

(A) *Transcript.* Transcript references should be as follows: [witness's surname], TR. [page]: [line(s)]~~((~~(witness's surname))~~))~~. If the transcript reference spans multiple pages, the reference should be as follows: [witness's surname], TR. [page]: [line] - [page]: [line] ~~((~~(witness's surname))~~))~~. Examples: Smith, TR. 21:5-14; Jones, TR. 356:4-357:21.

(B) *Exhibits.* Exhibit references should be as follows: Exh. No. [insert number assigned at hearing]. In the case of prefiled testimony offered or received as an exhibit, page number(s), line number(s), and the witness's surname should be added following the style specified in this section for transcript references. In other exhibits, references to page(s), line(s) for text, row(s) and column(s) for tables, or other specific references may be added to clarify the information cited.

(vi) *Citation to authority.* Parties must use the citation formats specified in the current edition of the style sheet of the Washington supreme court reporter of decisions. The presiding officer may require parties to file copies of ~~((non-Washington))~~ the text of authorities that are cited in parties' briefs and upon which parties place substantial reliance. Unless excused by the presiding officer, parties must include a table of cited authorities, with the full citation of each reference and its location in the brief.

(2) **Verification.** All pleadings and motions, except complaints brought by the commission or matters raised by the commission on its own motion must be dated and signed by at least one attorney or representative of record in his or her individual name, stating his or her address, or by the party, if the party is not represented. Parties who are not represented by an attorney must include a statement in any pleading that the facts asserted in the pleading are true and correct to the best of the signer's belief. Parties who bring certain complaints under RCW 80.04.110 or 81.04.110 that challenge the reasonableness of the rates or charges of juris-

dictional utilities must provide additional verification as specified in those statutes.

(3) **Errors in pleadings or motions.** The commission may return a pleading or motion to a party for correction when the commission finds the pleading or motion to be defective or insufficient. The commission may disregard or correct obvious typographical errors, errors in captions, or errors in spelling of names of parties.

(4) **Liberal construction of pleadings and motions.** The commission will liberally construe pleadings and motions with a view to effect justice among the parties. The commission, at every stage of any proceeding, will disregard errors or defects in pleadings, motions, or other documents that do not affect the substantial rights of the parties.

(5) **Amendments.** The commission may allow amendments to pleadings, motions, or other documents on such terms as promote fair and just results.

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

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-400 Discovery. (1) General.

(a) **No limitation on commission authority to audit and inspect.** Nothing in this section imposes any limitation on the commission's ability to audit or obtain the books and records of public service companies, or the public service companies' obligation to provide information to the commission, whether or not in the context of an adjudicative proceeding.

(b) **Informal discovery procedures.** Parties in an adjudicative proceeding may agree to informal discovery procedures in addition to, or in place of, the procedures contained in this section.

(c) **Definitions.** For purposes of WAC 480-07-400 through 480-07-425, the following terms have the following meanings:

(i) *Party.* Any party as defined by WAC 480-07-340.

(ii) *Data.* As used in this section, "data" means information of any type, in any form.

(iii) *Data request.* A party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a "data request." Generally, data requests seek documents, an analysis, compilation or summary of documents into a requested format, a narrative response explaining a policy, position, or a document, or the admission of a fact asserted by the requesting party. If a party relies on a cost study, it is expected that the party will, on request, rerun the study based on different assumptions, subject to the standards in subsection (5) of this section. The commission will not order a party to respond to a data request that seeks production of a new cost study unless there is a compelling need for such production.

(iv) *Record requisition.* A request for data made on the record during a conference or hearing session or during a deposition is a "record requisition."

(v) *Bench request.* A request for data made by or on behalf of the presiding officer is a "bench request."

(vi) *Depositions.* Depositions are described in WAC 480-07-410.

(2) When discovery available.

(a) ***Subpoenas always available.*** ~~((The only discovery procedure available in all adjudicative proceedings before the commission is the subpoena, including a subpoena duces tecum. A commissioner, an administrative law judge, or the attorney of any party to the proceeding may issue a subpoena. Witnesses are required to comply with subpoenas in the manner prescribed in Title 80 or 81 RCW and chapter 34.05 RCW. Witnesses will be paid as provided in RCW 34.05.446(7). Each subpoena must bear the name of the party requesting or issuing the subpoena and the party responsible for paying witness fees.))~~ Subpoenas are available as a means of discovery as provided in Title 80 or 81 RCW and chapter 34.05 RCW.

(b) ***When other discovery methods available.*** If the commission finds that an adjudicative proceeding meets one of the following criteria, the methods of discovery described in subsections (1)(c)(iii) through (vi) of this section and in WAC 480-07-410 and 480-07-415 will be available to parties:

(i) Any proceeding involving a change in the rate levels of an electric company, natural gas company, pipeline company, telecommunications company, water company, solid waste company, low-level radioactive waste disposal site, or a segment of the transportation industry;

(ii) Any proceeding that the commission declares to be of a potentially precedential nature;

(iii) Any complaint proceeding involving claims of discriminatory or anticompetitive conduct, unjust or unreasonable rates, violations of provisions in Titles 80 and 81 RCW; or

(iv) Any proceeding in which the commission, in its discretion, determines that the needs of the case require the methods of discovery specified in this rule.

(3) ~~((Signature on discovery requests. A party, or the party's attorney or other representative, must sign each discovery request or group of requests issued. The signature constitutes a certification that the request complies with the standards of CR 26(g) of the Washington superior court civil rules and that no request made substantially duplicates a request previously made by the requesting party to the same party in the same proceeding, unless the duplication is reasonably necessary and the reason for duplication is clearly stated.))~~

(4)) Frequency, extent, and scope of discovery. Data requests must seek only information that is relevant to the issues in the adjudicative proceeding or that may lead to the production of information that is relevant. A party may not object to a data request on grounds that the information sought will be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to discovery of admissible evidence. Parties must not seek discovery that is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. A discovery request is inappropriate when the party seeking discovery has had ample opportunity to obtain the information sought or the discovery is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the responding party's interest in the proceeding, and

the importance of the issues at stake in the adjudicative proceeding. Discovery through data requests or otherwise must not be used for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the costs of litigation. The commission may impose sanctions for abusive discovery practice.

~~((5))~~ **(4) Schedule.** The commission may establish and set forth in a prehearing order a schedule for discovery. Any such schedule will provide deadlines sufficient to allow a timely opportunity for responses and for disputes to be resolved. The presiding officer may impose or modify time limits to the extent necessary to conform to the commission's hearing schedule.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-405 Discovery—Data requests, record requisitions, and bench requests. (1) Grouping and numbering.

(a) ***Grouping.*** Parties must group their data requests by subject or witness and present data requests in an electronic format agreed upon by the parties whenever possible, unless the parties agree to a different procedure or the presiding officer orders a different procedure. Requests not presented in electronic format must include no more than one request per page. Parties with similar interests are encouraged, and may be required, to coordinate their issuance of data requests to avoid duplication.

(b) ***Numbering.*** Each party must number sequentially its data requests, as submitted. The presiding officer will ensure that record requisitions and bench requests are adequately described on the record and consecutively numbered.

(2) Service of data requests, records requisitions, and responses to parties.

(a) Written data requests must be sent to the party to whom the request is made, with copies to all other parties. The commission staff copy must be sent to the assistant attorney general who represents the commission staff. The commission encourages parties to agree to exchange data in electronic format by e-mail, on diskette, or by other mutually acceptable electronic means.

(b) If parties agree to the service of data requests and responses to requests by e-mail, the party serving the data requests or responses must serve copies electronically on all parties, including the assistant attorney general who represents the commission staff.

(c) Except when appropriate for other purposes, parties must not file data requests or responses to data requests with the commission, or provide them to any person who is presiding or advising the presiding officer. Responses that are later offered in evidence must be distributed as required for other proposed exhibits.

~~(3) Motion to compel (filing data requests, objections, and responses. Parties must not file data requests and responses to data requests with the commission or provide them to any presiding officer, except when a party files a motion to compel).~~ A party's motion to compel must include the relevant data request, any objection, and any response.

(4) **Limitation on numbers of data requests.** The presiding officer may limit the number of data requests that a party may submit and may require parties to certify that they have coordinated discovery with other parties of similar interest and that no substantial duplication exists with other parties' submissions.

(5) **Responding party to seek clarification.** If a party to whom a data request is submitted finds the meaning or scope of a request ~~((to be))~~ unclear, the responding party must immediately ~~((initiate a clarification call to))~~ contact the requesting party for clarification. Lack of clarity is not a basis for objection to a data request unless the responding party has made a good faith effort to obtain clarification.

(6) **Objections; consequence of failure to object.**

(a) **Data request.** A party ~~((that))~~ who wishes to object to a data request must present the objection to the requesting party in writing by the time the response is due, or at such other time as may be ordered. A party objecting to a data request must state the objection and explain the basis for the objection. A party that fails to interpose a timely objection to providing a full response to a data request waives any right to object for purposes of discovery and must provide a full response. A party ~~((that))~~ who fails to make an objection when responding to data requests does not lose the opportunity to raise an objection at hearing if another party seeks to introduce as evidence all or part of the party's response to a data request.

(b) **Records requisition.** A party to whom a record requisition is addressed may object to the request at the time it is made or, if it later discovers a reason for objection not reasonably known at the time of the record requisition, within five days ~~((thereafter))~~ after discovering the reason. A party may object to the admission of its response to a records requisition at the time the response is offered into evidence.

(c) Bench request. Any party may object to the issuance of, or response to, a bench request. A party may object at the time the bench request is made, or if made in writing or the party later discovers a reason for an objection not reasonably known at the time the bench request was made in hearing, within five days after discovery. A party may raise an objection based on the content of a bench request response within five days after distribution of the response. Responses to bench requests will be received in evidence unless a party objects to the bench request or response, or the commission rejects the response.

(7) **Responses.**

(a) **Data requests and record~~(s)~~ requisitions.** Parties must ~~((send))~~ serve responses to data requests and record requisitions ~~((to))~~ on the requesting party and ~~((to))~~ on any other party who requests a copy, consistent with the terms of any protective order entered in the proceeding. Parties must send the commission staff copy to the assistant attorney general who represents the commission staff unless the attorney requests an alternative method. Parties may agree to serve responses to data requests and record requisitions through e-mail.

(b) **Timing.** A party to whom a data request is directed must provide a full response to the data request within ten business days after the request is received. If the data cannot be supplied within ten business days, the responding party

must give written notice to the requesting party no later than two business days before the response is due. The notice must state why the ten-day limit cannot be met. The responding party must also provide a schedule by which it will produce the requested data and must explain why any portion of the data cannot be supplied. The presiding officer may modify these time limits.

(c) **Identification of respondent and witness.** Each data response must state the date the response is produced, the name of the person who prepared the response, and the name of any witness who is knowledgeable about and can respond to questions concerning the response.

(d) **Bench requests.** Parties must file responses to bench requests with the commission and serve all parties within ten business days after the request is made, unless the presiding officer specifies another schedule.

(8) **Supplementation.** Parties must immediately supplement any response to a data request, record requisition, or bench request upon learning that the prior response was incorrect or incomplete when made or upon learning that a response, correct and complete when made, is no longer correct or complete.

(9) **Use of responses to data requests, record requisitions or bench requests.** The commission will not consider or treat as evidence any response to a data request, record requisition, or bench request unless and until it is entered into the record.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-423 Discovery—Protective orders—Submission requirements for documents. (1) General. Protective orders entered in individual proceedings may allow for parties to designate portions of documents exchanged during discovery or submitted during a proceeding (e.g., by filing, or by offering as an exhibit) as "confidential" or "highly confidential." ~~((In general,))~~ Parties must strictly limit the amount of information they designate as confidential or highly confidential. ~~((Designation of documents as highly confidential is not permitted under the commission's standard form of protective order, and may only occur if the commission so orders.~~

~~((+))~~ **(2) Standard for highly confidential designation.** A party who wishes to designate information as highly confidential may file the documents designated as highly confidential, but must also file a motion for an amendment to the standard protective order, supported by a sworn statement that sets forth the specific factual and/or legal basis for the requested level of protection and an explanation of why the standard protective order is inadequate. The motion and sworn statement must identify specific parties, persons, or categories of persons, if any, to whom a party wishes to restrict access, and state the reasons for such proposed restrictions.

(3) Designations.

(a) The "confidential" designation is intended to protect information that might compromise a company's ability to compete fairly or that otherwise might impose a business risk

if disseminated without the protections provided in the commission's protective order.

(b) The "highly confidential" designation is reserved for information the dissemination of which, for example, imposes a highly significant risk of competitive harm to the disclosing party without enhanced protections provided in the commission's protective order. ~~((A party that wishes to designate information as highly confidential must first file a motion for an amendment to the standard protective order, supported by a sworn statement that sets forth the specific factual and/or legal basis for the requested level of protection and an explanation of why the standard protective order is inadequate. The motion and sworn statement must identify specific parties, persons, or categories of persons, if any, to whom a party wishes to restrict access, and state the reasons for such proposed restrictions.~~

(2)) (4) Submission. Parties must follow the instructions in WAC 480-07-160(3) for properly marking and submitting documents with the commission as confidential or highly confidential in a proceeding governed by a protective order.

~~((a) Confidential information. The first page and individual pages of a document determined in good faith to include confidential information must have the legend that reads: "Confidential per protective order in WUTC Docket No. [insert]." Placing a confidential legend on the first page of an exhibit indicates only that one or more pages contain confidential information and will not serve to protect the entire contents of the multipage document. Each page that contains confidential information must be marked separately to indicate where confidential information is redacted. Confidential information must be submitted on yellow or canary paper with contrasting highlighter (e.g., gray or blue) used to mark the confidential portions.~~

~~(b) Highly confidential information. The first page and individual pages of a document determined in good faith to include highly confidential information must be marked by a stamp that reads: "Highly confidential per protective order in WUTC Docket No. [insert]." A "highly confidential" stamp on the first page of a document indicates only that one or more pages contain highly confidential information and will not serve to protect the entire contents of a multipage document. Each page that contains highly confidential information must be highlighted to indicate where highly confidential information is redacted. The unredacted versions of each page containing highly confidential information, and provided under seal, also must be marked with the "highly confidential. . ." stamp and must be submitted on light blue paper with contrasting highlighter (e.g., gray or yellow) used to mark the highly confidential portions.~~

~~(c) Redacted version. A separate version of each document that is designated as confidential or highly confidential must be provided on white paper with all of the confidential or highly confidential information redacted either by blacking out the information or replacing it with brackets and blank space. The first page must be marked as required in subsections (a) and (b) of this section, and additionally must be marked "redacted.")~~

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-460 Hearing—Predistribution of exhibits and prefiled testimony. (1) **Predistribution of evidence.** The commission may require parties to distribute their proposed evidence to other parties before the start of the evidentiary hearing. In general rate proceedings for electric, natural gas, pipeline, and telecommunications companies, the petitioner must prefile its proposed direct testimony and exhibits at the time it files its rate increase request, in accordance with WAC 480-07-510. The commission may convene a prehearing conference shortly before a scheduled hearing and require all parties to predistribute their proposed cross-examination exhibits.

(a) *Number of copies to be filed or submitted; service.* When predistribution of evidence other than proposed exhibits for use in cross-examination is required, each party must file the original plus twelve copies of its evidence with the commission unless the commission specifies a different number. When the commission requires parties to predistribute their proposed exhibits for use in cross-examination, each party must submit six copies to the bench if the commissioners are sitting as presiding officers and three copies if the commissioners are not sitting. The presiding officer may change the number of copies required. All proposed evidence must be served on all other parties to a proceeding whenever predistribution of evidence is required.

(b) *Changes or corrections.*

(i) *Substantive corrections.* Prefiled testimony may be revised to correct mistakes of fact asserted by a witness. Such mistakes may arise from a variety of causes such as scrivener's error, error in calculation, or error of misreported fact. Each party must advise all other parties of substantive corrections to any prefiled evidence as soon as the need for correction is discovered.

(ii) *Substantive changes.* Parties must seek leave from the presiding officer by written motion if they wish to submit testimony that includes substantive changes other than to simply correct errors of fact asserted by a witness. A party proposing such changes may submit the proposed revisions with its motion.

(iii) *Minor corrections.* Minor revisions to prefiled testimony and exhibits may be made to correct typographical errors, printing errors, and nonsubstantive changes (e.g., a change in a witness's address or employment). Counsel should not ask a witness on the stand to correct obvious typographical errors in the prefiled testimony or to make more than three minor substantive corrections. If more than three minor revisions are required, parties must prepare an errata sheet or a revised exhibit for submission at least one business day prior to the hearing to show such corrections to the prefiled evidence. ~~((Parties that submit revisions to predistributed or previously admitted testimony or exhibits must prominently label them "revised" and indicate the date of the revision. The revised portions must be highlighted, in legislative style or other manner that clearly indicates the change from the original submission. This practice must be followed even with minor changes that involve only one page of an exhibit. Counsel must identify partial revisions by page and date~~

when an exhibit is presented for identification, sponsored, or offered into evidence, as appropriate:)

(iv) Format requirements for revisions. Parties who submit revisions to predistributed or previously admitted testimony or exhibits must prominently label them "REVISED" and indicate the date of the revision. The revised portions must be highlighted, in legislative style or other manner that clearly indicates the change from the original submission. This practice must be followed even with minor changes that involve only one page of an exhibit. If one or more pages of multiple page testimony or exhibits are revised, the header or footer of the affected pages must be labeled "REVISED" and indicate the date of the revision. Parties may indicate changes to spreadsheets by providing a description of the change and how the change affects other related spreadsheets. For revisions to spreadsheets, counsel must identify partial revisions by page and date when an exhibit is presented for identification, sponsored, or offered into evidence, as appropriate.

(c) Distribution at hearing. When a party offers new exhibits, revised exhibits, or errata sheets at a hearing, the party must provide sufficient copies for all parties and for the commission's distribution requirements. When the commission requires parties to predistribute their exhibits, a party may be required to establish good cause for any failure to predistribute a proposed exhibit, other than an exhibit offered solely for impeachment of the witness's testimony on the stand, or the exhibit may be excluded.

(2) **Prefiled testimony.**

(a) Exhibit numbers—Official record. The presiding officer will assign exhibit numbers to all prefiled testimony and exhibits at the final prehearing conference prior to hearing, or at hearing. These assigned numbers will be the exhibit numbers for purposes of the official record in the proceeding.

(b) Parties are required to mark prefiled testimony and exhibits for identification. Parties must mark all written testimony and exhibits for identification in the upper right-hand corner of the first page prior to submission as follows:

(i) State "Exhibit No.," followed by a blank underline. Then, on the same line, identify the sponsoring witness by including the witness's initials.

(ii) Place a hyphen after the witness's initials and insert a number, beginning with Arabic numeral 1, and sequentially number each subsequent exhibit (including any subsequent written testimony) throughout the proceeding.

(iii) Place the capital letter "C" after the number if the testimony or exhibit includes information asserted to be confidential under any protective order that has been entered in the proceeding.

(iv) Place the capital letter "T" after the number if the exhibit is a witness's prefiled testimony.

For example, John Q. Witness's prefiled testimony and accompanying exhibits must be marked as follows:

Testimony or Exhibit	Marked for Identification
John Q. Witness's prefiled direct testimony	Exhibit No. ____ (JQW-IT)
First exhibit to John Q. Witness's prefiled direct testimony (nonconfidential)	Exhibit No. ____ (JQW-2)

Testimony or Exhibit	Marked for Identification
Second exhibit to John Q. Witness's prefiled direct testimony (confidential)	Exhibit No. ____ (JQW-3C)
Third exhibit to John Q. Witness's prefiled direct testimony (nonconfidential)	Exhibit No. ____ (JQW-4)
John Q. Witness's prefiled rebuttal testimony (with portions marked confidential)	Exhibit No. ____ (JQW-5CT)
First exhibit to John Q. Witness's prefiled rebuttal testimony (nonconfidential)	Exhibit No. ____ (JQW-6)

Counsel and other party representatives who are unfamiliar with this method of identification may ask the presiding officer for further guidance.

(c) Summary of testimony. Each witness must present a short summary of his or her prefiled testimony on the opening page or two of the testimony. Counsel or other party representative will be expected to ask as a foundation question when the witness takes the stand the subjects that will be covered by the witness. This foundation question should request, and the witness's response should include, only a statement of the subject(s) to be covered by the witness (e.g., rate of return on equity, cost of debt, prudence) and not a summary of the witness's positions on the subject(s) identified.

(d) Form of testimony and exhibits. All prefiled testimony and exhibits must be paginated. In addition, line numbers must be set out on all prefiled testimony to facilitate transcript or exhibit references. All copies of prefiled testimony and exhibits must be provided on 8 1/2 x 11 inch, three-hole punched paper (oversize holes are preferred), double-spaced, 12-point type, using palatino, times new Roman, or an equally legible serif font, with footnotes in the same font and of at least 10-point type, with margins of at least one inch on all sides. Preprinted documents and spreadsheets need not conform to these typeface and type size requirements, but must be legible. Oversized documents may be used at the hearing for illustrative purposes but must be provided on 8 1/2 x 11 inch paper if offered into evidence and reduction to that format is feasible.

(e) Submission requirements. All prefiled exhibits, both direct examination and cross-examination exhibits, must be individually separated by blank sheets with tabs.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-470 Hearing guidelines. These guidelines are of a general nature and are provided to assist the presiding officer in regulating the course of the proceeding. The presiding officer may suspend or modify the guidelines or use measures not specified in this rule.

(1) **Starting times.** Starting times will be strictly observed. The proceeding may go forward in the absence of counsel, parties, or witnesses who are late. Counsel may

advise the bench by message to the records center when an emergency prevents timely arrival.

(2) **Appearances.** All persons who will be representing a party in a formal proceeding must give their names and addresses in writing to the court reporter immediately before the first hearing session in which they appear. The presiding officer conducting the hearing or prehearing conference will require appearances to be stated orally at the initial prehearing or hearing session, and may also ask for oral appearances at subsequent sessions in the same proceeding, so that all persons attending the hearing will know the identity and interest of all parties present. Oral appearance at hearing does not substitute for the requirement for written notice of appearance in WAC 480-07-345(2).

(3) **Matters to be handled at beginning of session.** Parties must notify the presiding officer no later than the start of the hearing session of any motion that a party anticipates may be presented during the hearing, such as one that may require foundation regarding the admissibility of evidence. The presiding officer will give the parties an appropriate opportunity to state and argue any motions related to evidence or to the procedural course of the hearing.

(4) **Summary by public counsel.** At the beginning of a hearing session during which the commission will hear testimony from members of the public, the commission may provide public counsel an opportunity to inform the public of the major contested issues and to state public counsel's positions on those issues. The commission will give other parties an opportunity to respond.

(5) **Evidence; exhibits; stipulations of fact.** The presiding officer may receive evidence as provided by RCW 34.05.452.

(6) **Order of presentation.** Evidence will ordinarily be received in the following order:

- (a) Party having the burden of proof;
- (b) Parties supporting the party having the burden of proof;
- (c) Parties opposing the party having the burden of proof;
- (d) Rebuttal by the party having the burden of proof;

The presiding officer may direct a modified order of presentation considering the needs of the parties, the commission, and the proceeding, and the parties' preferences.

(7) **Testimony under oath.** The presiding officer will administer an oath or affirmation to each witness before the witness testifies in an adjudicative proceeding. When members of the public testify, they will be sworn in the same fashion as other witnesses.

(8) **Addressing the presiding officer or witnesses.** All counsel and other party representatives must address all comments, objections, and statements to the presiding officer and not to other counsel. Questions that concern testimony or exhibits sponsored by a witness must be addressed to the witness and not to counsel or other party representatives.

(9) **Resolving matters off the record.** Counsel or other party representatives who request off-the-record discussions must ask leave to go off the record and state the purpose for the request. Extended colloquies regarding procedural issues may be conducted off the record, but will be summarized for

the record by the presiding officer subject to comments from party representatives.

(10) **Witness panels.** The commission may direct or allow two or more witnesses to take the stand simultaneously when doing so allows a benefit such as the integrated response to a line of questions, minimizing referral of questions from one witness to another, or comparing witnesses' positions. The presiding officer will also allow cross-examination of each witness upon matters within the witness's direct evidence.

(11) **Cross-examination.** Counsel and other party representatives should be prepared to provide time estimates for cross-examination of witnesses. The presiding officer will limit cross-examination to one round unless good cause exists for allowing additional questions. Witnesses must not be asked to perform detailed calculations or extract detailed data while on the stand. Any such questions must be provided to the witness at least two business days prior to the date the witness is expected to testify, must ask the witness to provide the answer for the record later in the hearing session, or must provide an answer and ask the witness to accept it "subject to check." Witnesses must not be asked to accept information "subject to check" if the information is included in a prefiled exhibit or testimony, or is already in evidence. When a witness accepts information "subject to check," the witness must perform the "check" as soon as possible. A response given "subject to check" will be considered accurate unless the witness disputes it on the witness stand or by filing an affidavit, stating reasons, within five business days following the ((witness's testimony)) date of receipt of the hearing transcript.

(12) **Redirect examination.** A party whose witness has been cross-examined may conduct redirect examination of the witness on ~~((those))~~ issues raised during cross-examination.

(13) **Post-hearing planning.** The presiding officer will confer with the parties concerning post-hearing process. The presiding officer will determine whether oral argument, briefs, or both will be required, taking into consideration the needs of the commission and the parties' preferences. The presiding officer may determine a common format or outline to be used by all parties if briefs are required. Briefs must comply with the requirements of WAC 480-07-395.

(14) **Transcript.** Each party will bear its own costs for transcripts or tape recordings, including charges for expedited service when a party requests it.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-510 General rate proceedings—Electric, natural gas, pipeline, and telecommunications companies. General rate proceeding filings for electric, natural gas, pipeline, and telecommunications companies must include the information described in this section. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to the company's right to refile its request in conformance with this section. The company must provide:

(1) **Testimony and exhibits.** ~~((Twelve))~~ Nineteen paper copies of all testimony and exhibits that the company intends

to present as its direct case if the filing is suspended and a hearing held. In addition, the company must provide one electronic copy of the testimony and exhibits in ~~((a))~~ the format ((or formats authorized in these rules or by the commission secretary)) identified in WAC 480-07-140(6). Material that the company has not ~~((been))~~ produced under ~~((the company's))~~ its direction and control and that is not reasonably available to it in electronic format, such as generally available copyrighted published material, need not be provided in electronic format. A copy of the testimony and exhibits filed under this section must be served on public counsel at the time of filing with the commission. The utility must provide an exhibit that includes a results-of-operations statement showing test year actual results and the restating and pro forma adjustments in columnar format supporting its general rate request. The utility must also show each restating and pro forma adjustment and its effect on the results of operations. The testimony must include a written description of each proposed restating and pro forma adjustment describing the reason, theory, and calculation of the adjustment.

(2) **Tariff sheets.** ~~((Three copies))~~ a copy of the proposed new or revised tariff sheets in legislative format, with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted, in paper and electronic format, unless already provided as an exhibit under subsection (1) of this section.

(3) **Work papers and accounting adjustments.** Three copies of all supporting work papers of each witness in a format as described in (b) of this subsection must be filed with the utility's general rate request and in each subsequent round of testimony filed (e.g., response, rebuttal). If the testimony, exhibits, or work papers refer to a document, including, but not limited to, a report, study, analysis, survey, article or decision, that document must be provided as a work paper unless it is a reported court or agency decision, in which case the reporter citation must be provided in the testimony. If a referenced document is voluminous, it need not be provided with the filing but must be made available if requested. The following information ~~((must be included in the company's work papers, if it is not included in the testimony or exhibits))~~ is required for work papers that accompany the company's filing and all parties' testimony and exhibits:

(a) A detailed portrayal of the development of ~~((the company's requested))~~ any capital structure and rate of return proposal and all supporting work papers in the format described in (b) of this subsection.

(b) Parties must file work papers that contain a detailed portrayal of restating actual and pro forma adjustments that the company uses to support ~~((the))~~ its filing or that another party uses to support its litigation position, specifying all relevant assumptions, and including specific references to charts of accounts, financial reports, studies, and all similar records relied on by the company in preparing its filing, ~~((supporting))~~ and by all parties in preparing their testimony(;) and exhibits. All work papers must include support for, and calculations showing, the derivation of each input number used in the detailed portrayal and for each subsequent level of detail. The derivation of all interstate and multiservice allocation factors must be provided in the work papers. Work papers must be plainly identified and well

organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology. Parties must file all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the exhibits and work papers must be submitted using logical file paths, as necessary, by witness, and using identifying file names. If ~~((the company))~~ a party proposes to calculate an adjustment in a manner different from the method that the commission most recently accepted or authorized for the company, it must also present a work paper demonstrating how the adjustment would be calculated under the methodology previously accepted by the commission, and a brief narrative describing the change. Commission approval of a settlement does not constitute commission acceptance of any underlying methodology unless so specified in the order approving the settlement.

(i) "Restating actual adjustments" adjust the booked operating results for any defects or infirmities in actual recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for rate making. Examples of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items recorded during the test period.

(ii) "Pro forma adjustments" give effect for the test period to all known and measurable changes that are not offset by other factors. The filing must identify dollar values and underlying reasons for each proposed pro forma adjustment.

(c) A detailed portrayal of revenue sources during the test year and a parallel portrayal, by source, of changes in revenue produced by the filing, including an explanation of how the changes were derived.

(d) If the public service company has not achieved its authorized rate of return, an explanation of why it has not and what the company is doing to improve its earnings in addition to its request for increased rates.

(e) A representation of the actual rate base and results of operation of the company during the test period, calculated in the manner used by the commission to calculate the company's revenue requirement in the commission's most recent order granting the company a general rate increase.

(f) Supplementation of the annual affiliate and subsidiary transaction reports as provided in rules governing reporting requirements for each industry, as necessary, to include all transactions during the test period. The company is required to identify all transactions that materially affect the proposed rates.

(4) **Summary document.** A summary document that briefly states the following information on an annualized basis, if applicable. In presenting the following information, the company must itemize revenues from any temporary, interim, periodic, or other noncontinuing tariffs. The company must include in its rate change percentage and revenue change calculations any revenues from proposed general rate

change tariffs that would supersede revenue from noncontinuing tariffs.

(a) The date and amount of the latest prior general rate increase authorized by the commission, and the revenue realized from that authorized increase in the test period, based on the company's test period units of revenue.

(b) Total revenues at present rates and at requested rates.

(c) Requested revenue change in percentage, in total, and by major customer class.

(d) Requested revenue change in dollars, in total, and by major customer class.

(e) Requested rate change in dollars, per average customer, by customer class, or other representation, if necessary to depict representative effect of the request. Filings must also state the effect of the proposed rate increase in dollars per month on typical residential customers by usage categories.

(f) Most current customer count, by major customer class.

(g) Current authorized overall rate of return and authorized rate of return on common equity.

(h) Requested overall rate of return and requested rate of return on common equity, and the method or methods used to calculate rate of return on common equity.

(i) Requested capital structure.

(j) Requested net operating income.

(k) Requested rate base and method of calculation, or equivalent.

(l) Requested revenue effect of attrition allowance, if any is requested.

(5) Required service of summary document. The company must mail the summary document required in subsection (4) of this section to the persons designated below on the same date it files the summary document with the commission:

(a) Public counsel;

(b) All intervenors on the commission's master service list for the company's most recent general rate proceeding;

(c) All intervenors on the master service list for any other rate proceeding involving the company during the five years prior to the filing, if the rates established or considered in that proceeding may be affected in the company's proposed general rate filing;

(d) All persons who have informed the company in writing that they wish to be provided with the summary document required under this section. The company must enclose a cover letter stating that the prefiled testimony and exhibits and the accompanying work papers, diskettes, and publications specified in this rule are available from the company on request or stating that they have been provided. This provision does not create a right to notice in persons named to receive the summary.

(6) **Cost studies.** The company must include any cost studies it performed or relied on to prepare its filing, identify all cost studies conducted in the last five years for any of the company's services, and describe the methodology used in such studies.

(7) **Other.** The company must include its most recent annual report to shareholders, if any, and any subsequent quarterly reports to shareholders; the most recent FERC

Form 1 and FERC Form 2, if applicable; and the company's Form 10K's, Form 10Q's, any prospectuses for any issuances of securities, and quarterly reports to stockholders, if any, for the most recent two years prior to the filing date.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-520 General rate proceedings—Solid waste collection companies. General rate increase filings by class A and B haulers as defined in WAC 480-70-041 must include the information described in this rule. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to the company's right to refile its request in conformance with this section.

(1) **Proposed tariff.** ~~((Two copies of the))~~ The proposed tariff sheets may be filed in electronic form supplemented by one paper copy. The proposed tariff~~((s))~~ sheets should be in legislative format, with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted. The electronic copy must be submitted in the format identified in WAC 480-07-140(6).

(2) **Local government ordinances and notices.** A copy of every local government ordinance related to the request in compliance with WAC 480-70-326, and a copy of the customer notices issued in compliance with the provisions of WAC ~~((480-149-120))~~ 480-70-271.

(3) **Transmittal letter.** A transmittal letter prepared in compliance with the provisions of WAC ~~((480-149-120 and))~~ 480-70-326.

(4) **Work papers.** One paper and one electronic copy of all supporting work papers for the test period, which is the most recent or most appropriate consecutive twelve-month period for which financial data are available. The electronic copy must be submitted in the format identified in WAC 480-07-140(6). Work papers must include:

(a) A detailed pro forma income statement separated among solid waste, single family residential recycling, multi-family recycling, and yard waste, with restating actual and pro forma adjustments, including all supporting calculations and documentation for all adjustments.

(i) "Restating actual adjustments" adjust the booked operating results for any defects or infirmities in actual recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for rate making. Examples of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, and to eliminate or to normalize extraordinary items recorded during the test period.

(ii) "Pro forma adjustments" give effect for the test period to all known and measurable changes that are not offset by other factors. The filing must identify dollar values and underlying reasons for each proposed pro forma adjustment.

(b) A calculation of the revenue impact of proposed tariff revisions.

(c) An income statement listing all revenue and expense accounts by month.

(d) If nonregulated revenue represents more than ten percent of total company test period revenue, a detailed separation of all revenue and expenses between regulated and non-regulated operations.

(e) A detailed list of all nonregulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request.

(f) Detailed price-out information that reconciles within five percent, without adjustment, to the test period booked revenue, including the test period customer count by tariff item.

(g) A consolidated balance sheet, including the percentage of equity and the percentage of debt, and the cost of that debt by component.

(h) A detailed depreciation schedule listing all used and useful assets held by the company during the test period, including the date of purchase, the cost at purchase, the depreciable life, the salvage value, depreciation expense, and accumulated depreciation expense at the end of the test period.

(i) Computed average investment. Average investment is the net book value of allowable assets at the beginning of the test period plus the net book value of allowable assets at the end of the test period, divided by two. Investor supplied working capital may be included, provided a work sheet is submitted detailing the calculations.

(j) Information about every transaction with an affiliated interest or subsidiary that directly or indirectly affects the proposed rates. This must include: A full description of the relationship, terms and amount of the transaction, the length of time the relationship has been ongoing, and an income statement and balance sheet for every affiliated entity.

(5) **Annual report.** The most recent consolidated annual report to shareholders, if any.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-620 Emergency adjudicative proceedings. (1) **When permitted.** The commission may conduct an emergency adjudicative proceeding pursuant to RCW 34.05.479 to suspend or cancel authority, to require that a dangerous condition be terminated or corrected, or to require immediate action in any situation involving an immediate danger to the public health, safety, or welfare requiring immediate action by the commission. Such situations include, but are not limited to:

(a) Inadequate service by a public service company when the inadequacy involves an immediate danger to the public health, safety, or welfare; and

(b) Violations of law, rule, or order related to public safety, when the violation involves an immediate danger to the public health, safety, or welfare.

(2) **Complaint.** If time permits, the commission or a complainant must prepare a complaint and serve it on the respondent using a method that best provides actual notice of the adjudication. If a majority of the commissioners are not available to authorize a complaint, one commissioner or, if no commissioner is available, the secretary of the commis-

sion or the senior available administrative law judge may authorize a complaint.

(3) **Who presides.** The commissioners will sit as presiding officers, hear the matter, and enter an order, if a majority of the commissioners are available. Any available commissioner will sit as presiding officer, hear the matter, and enter an order, if a majority of the commissioners is not available. The supervisor of the commission's administrative law judge function will assign an administrative law judge to sit as presiding officer, hear the matter, and enter an order, if no commissioner is available.

~~((3))~~ (4) **Record and decision.** The official record will include any written submissions of the parties; oral comments by the parties, if the presiding officer has allowed oral comments; and any documents regarding the matter that were considered or prepared by the commission. The agency's record need not constitute the exclusive basis for action, unless otherwise required by law.

~~((4))~~ (5) **Emergency order.** The presiding officer will enter an emergency order as soon as practicable under the circumstances. The order will include a brief statement of findings of fact, conclusions of law, and justification for the determination of an immediate danger to the public health, safety, or welfare. The order is effective when entered. The commission will serve the order pursuant to WAC 480-07-150 (3) and (7).

~~((5))~~ (6) **Post-order process.** After entering an emergency order under this section, the commission will proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger to the public health, safety, or welfare, and will enter a final order.

~~((6))~~ (7) **Review or reconsideration of emergency order.** Any party to an emergency adjudicative proceeding may seek immediate review by the full commission in the case of any order entered by a single commissioner or by an administrative law judge. In the case of any order entered by a majority of the commissioners, any party may seek immediate reconsideration. If either review or reconsideration is requested, the commission will establish appropriate process to complete its review or reconsideration within ten days of the date of any petition for review or reconsideration. A party seeking immediate review or reconsideration is not automatically entitled to a stay of the emergency order.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-650 Petitions for enforcement of telecommunications company interconnection agreements. The purpose of this rule is to provide a speedy and enforceable means to resolve disputes when one party to an interconnection agreement contends that the other party is violating the terms of the agreement.

(1) **Petitions for enforcement.** A telecommunications company that is party to an interconnection agreement with another telecommunications company may petition under this rule for enforcement of the agreement.

(a) **What the petition must contain.** Each petition for enforcement must contain the following elements:

(i) A statement, including specific facts, demonstrating that the petitioner engaged in good faith negotiations to resolve the disagreement, and that despite those negotiations the parties failed to resolve the issue.

(ii) A copy of the provision of the interconnection agreement that the petitioner contends is not being complied with.

(iii) A description of facts demonstrating failure to comply with the agreement. One or more affidavits, declarations, or other sworn statements, made by persons having personal knowledge of the relevant facts must support the description.

(b) **How to serve the petition.** The petitioner must serve the petition for enforcement on the responding party on the same day the petition is filed with the commission. If the petitioner chooses to serve the respondent by mail or parcel delivery service, it must deliver a copy of the petition and all supporting documents by hand delivery, ~~((telefacsimile))~~ fax, or ~~((electronic mail))~~ e-mail (to the e-mail address specified by the recipient for the purpose of receiving a copy of the petition) on the same day as filed with the commission. For purposes of this section, service must be effected on:

(i) The responding party's authorized representative, attorney of record, or designated agent for service of process;

(ii) The responding party's representatives with whom the petitioner conducted the negotiations addressed in (a)(i) of this subsection; and

(iii) All parties designated in the interconnection agreement to receive notices.

(c) **Profiling notice of petition.** The petitioner must give at least ten days' written notice to the respondent that the petitioner intends to file a petition for enforcement. The notice must identify ~~((the contract))~~ each specific provision of the agreement that the petitioner alleges was violated, and the exact behavior or failure to act that petitioner alleges violates the agreement. The written notice must be served as provided in (b) of this subsection. The petitioner must include a copy of this notice with its petition for enforcement.

(2) **Answering a petition.** The respondent may answer the petition. The respondent waives the opportunity to present any matter that is not raised in the answer, except that the answer may be amended under subsection (3) of this section.

(a) **Contents of the answer.** The answer to a petition for enforcement must respond to each allegation of failure to comply with the terms of the interconnection agreement, stating relevant facts. Any facts relied upon must be supported by affidavits, declarations, or other sworn statements by persons having personal knowledge of the facts.

(b) **Filing and service of the answer.** The respondent must file the answer with the commission and serve it on the petitioner within five business days after service of the petition for enforcement. Service must be accomplished so that a copy of the response to the petition for enforcement and all supporting documents reach the petitioner's attorney, or the person who signed the petition if petitioner has no attorney, on the same day the answer is filed with the commission. If the respondent chooses to serve the petitioner by mail, a copy of the petition for enforcement and all supporting documents must be delivered to the person identified above on the same day as filed with the commission.

(3) **Amendment of petition and answer.** The presiding officer may permit the responding party to amend its answer for good cause shown, and to avoid substantial prejudice to the responding party that is not caused by the fault of the responding party. The presiding officer may permit either party to amend its petition or answer to conform to the evidence presented during the proceeding. The presiding officer may refer to, but is not bound by, CR 15(b) of the Washington superior court civil rules, when determining whether to permit amendment of the petition or answer to conform to the evidence.

(4) **Prehearing conference.** The commission will conduct a prehearing conference regarding each petition for enforcement of an interconnection agreement.

(a) **Schedule; mandatory attendance.** The presiding officer will issue notice of a prehearing conference within five business days after the petition is filed. Both the petitioner and the respondent must attend the prehearing conference. The prehearing conference may be conducted by telephone.

(b) **Procedural determination.** The presiding officer will determine at the prehearing conference whether the issues raised in the petition can be determined on the pleadings, submissions, and any oral statements without further proceedings. When determining whether to schedule an oral enforcement hearing session, the presiding officer will consider the parties' preferences and the reasons they advance, the need to clarify statements by asking questions, whether the issues are largely factual, largely legal, or involve questions of fact and law, the apparent complexity of facts and issues, the need for speedy resolution, and the completeness of information presented. The presiding officer may require the parties to submit written briefs on the issues.

(c) **Means of obtaining additional information.** If the presiding officer determines that further proceedings are necessary, the presiding officer will establish a schedule for receiving additional facts or evidence and may schedule an enforcement hearing session to explore the facts and issues raised in the petition and the answer. The party filing the ~~((complaint))~~ petition or answer may file with the ~~((complaint))~~ petition or answer a request for discovery, stating the matters to be inquired into and their relationship to matters directly at issue. The presiding officer may allow limited discovery requiring only the disclosure of facts relating directly to matters at issue, and only if discovery is shown to be essential to the requesting party. The presiding officer will establish a shortened discovery schedule to comply with the timelines of this rule.

(d) Consideration as a complaint. If the matter at issue involves policy, technical or accounting issues that require extensive analysis or discovery, the commission may convert the proceeding to a complaint proceeding to allow adequate time and process for the demands of the proceeding.

(5) **Powers of the presiding officer; conversion of proceeding; recommended or final decision.**

(a) **Conduct of proceeding.** The presiding officer has broad discretion to conduct the proceeding in a manner that best suits the nature of the petition, including, but not limited to, converting the proceeding into a complaint proceeding under RCW 80.04.110. Matters may be appropriate for con-

version when their complexity requires that they cannot be completed on the schedule provided in this rule; when the petitioner requires discovery beyond a disclosure of facts directly related to the matters at issue; when extensive policy argument or legal briefing is required; or when participation by parties other than the petitioner and the respondent is necessary. The presiding officer may limit the record to written submissions or may schedule an enforcement hearing session. The presiding officer may limit the number of exhibits and witnesses and the time for their presentation.

(b) **Recommended decision.** The presiding officer, if other than the commissioners, will serve a recommended decision on the parties within seventy-five days of the date the petition for enforcement was filed, or twenty-one days after the last hearing session or submission, whichever is later. The recommended decision is subject to approval by the commission. If the commissioners preside over the enforcement proceeding, they may enter a final decision within the time requirements applicable to recommended decisions.

(c) **Review of the recommended decision.** Any party may file a petition for administrative review of a recommended decision within seven days after the order is entered. A party opposing review may file an answer within five days after a petition for review is filed. The commission may hear the parties' arguments ~~((or comments))~~ regarding any recommended decision on the written pleadings or during ((a hearing)) oral argument, which may, in the commission's discretion, be scheduled coincident with a regular or special open public meeting. ~~((The parties may file written comments prior to the meeting on a schedule established in the recommended decision.))~~ The commission may request commission staff to make a presentation at the ~~((meeting))~~ argument. The commission will conduct this session within ten days after the date of the recommended decision, or as soon thereafter as the commissioners' schedules permit. If no party files a petition for administrative review, the commission may adopt the recommended decision without material change. If the commission considers making a material change in a recommended order to which no petition for review has been filed, the commission must first seek the views of the parties on the issue.

(6) **Commission decision on petition for enforcement.**

(a) **Extent of commission discretion.** The commission will serve a final decision on the parties in the form of a commission order resolving the issues. The commission may adopt, modify, or reject all or part of any recommended decision.

(b) **Time of service.** The commission will enter its order on the petition for enforcement no later than ninety days after the date the petition is filed or fifteen days after the meeting at which it reviews the recommended decision, whichever is later. The commission may extend this time for lack of resources or for other good cause.

(c) **Petition for reconsideration.** The parties may petition for reconsideration within ten days after the commission serves its order on the petition for enforcement. If a party petitions for reconsideration, the commission may request that an answer be filed. The commission may request additional comments, briefing, evidence, or argument from the

parties. Filing a petition for reconsideration of the order does not stay the effect of the order. A petition for reconsideration is deemed denied unless the commission grants or denies it by written order within ten days after the date on which petition for reconsideration is filed or the date established for filing an answer or additional comments, briefing, evidence, or argument, whichever is later. The commission may alter the time for entering its order on a petition for reconsideration by notice or letter.

(d) **Failure to comply with the order.** Any party who fails to comply with the terms of the commission's final order on a petition for enforcement is subject to penalties under RCW 80.04.380 and any other penalties or sanctions as provided by law. A company against whom a penalty is assessed may challenge the penalty or the facts on which it is based, or seek mitigation of the penalty, pursuant to pertinent law and commission rules.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-710 Mediation. (1) **Scope.** This rule applies generally to settlement negotiations in which the commission agrees to assign a qualified mediator to assist the parties. This rule applies specifically to implement the mediation provisions of sections 251 and 252 of the Telecommunications Act of 1996, 47 U.S.C. §§ 251 and 252.

(2) **Commission participation.** The parties to a negotiation, including a negotiation under 47 U.S.C. §§ 251 and 252, may ask the commission to mediate any differences that arise during the negotiation. A request for mediation must include a brief statement of the nature of the dispute and the names, postal and ~~((electronic mail))~~ e-mail addresses, telephone and fax numbers of the parties and their representatives. Copies of the request must be served on all parties to the negotiation. All parties are required to participate in good faith if the commission agrees to mediate.

(3) **Mediators.** The commission may assign one or more qualified employees to serve as mediator(s). The commission may require the parties to retain the services of a professional mediator acceptable to all parties.

(4) **Process.** Mediators have discretion to regulate the course of the mediation, including scheduling mediation sessions, in consultation with the parties. The following general procedures apply:

(a) The mediator may not impose a settlement but may offer proposals for settlement;

(b) The mediator may meet individually with the parties or attorneys during mediation;

(c) Only the parties to the negotiation and the mediator may attend the mediation session(s), unless all parties and the mediator consent to the presence of others;

(d) Parties must provide the mediator with a brief statement of position and relevant background information prior to the first mediation session;

(e) The mediator may ask for supplemental information;

(f) The mediator ~~((should))~~ may not provide legal advice to the parties, nor are any mediator's ~~((statements))~~ stated opinions as to law or policy binding on the commission, unless later adopted by the commission;

(g) The mediation process is confidential to the extent permitted by law, subject to the requirement for a written agreement or other record indicating an expectation that mediation communications will be privileged against disclosure as required under RCW ~~((5-60-70 [5-60-070]))~~ 7.07.020; and

(h) No stenographic or electronic record will be kept.

(5) **Fees and costs.** Each party must bear its own fees and costs. Each party must pay any fees imposed by commission rule or statute.

(6) **Notice to commission.** Parties must advise the commission if they reach a full, partial, or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 480-07-640 (commission approval of interconnection agreements) or WAC 480-07-740, as appropriate. The commission will determine the appropriate procedure in each proceeding consistent with the requirements of WAC 480-07-640 or 480-07-740.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-730 Settlement. A settlement is an agreement among two or more parties to a proceeding ~~((that is))~~, filed with the commission as a proposed resolution of one or more issues. Parties must ~~((supplement the filing of a written))~~ submit an electronic copy of the settlement agreement ~~((by submitting the document in electronic form as specified))~~ in the format identified in WAC 480-07-140~~((S))~~ (6).

(1) **Full settlement.** An agreement of all parties that would resolve all issues in a proceeding may be presented as a full settlement for commission review. Parties ~~((that))~~ who file a full settlement should file supporting evidence at the same time as the settlement agreement, or within a reasonable time following filing of the settlement agreement.

(2) **Partial settlement.** An agreement of all parties on some issues may be presented as a partial settlement for commission review, and remaining matters may be litigated. Parties ~~((that))~~ who file a partial settlement should file supporting evidence at the same time as the settlement agreement, or within a reasonable time following filing of the settlement agreement.

(3) **Multiparty settlement.** An agreement of some, but not all, parties on one or more issues may be offered as their position in the proceeding along with the evidence that they believe supports it. Nonsettling parties may offer evidence and argument in opposition.

(4) **Notice to commission.** Parties must advise the commission if they reach a full, partial, or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement, subject to the requirements of WAC 480-07-740. The commission will determine the appropriate procedure in each proceeding consistent with the requirements of WAC 480-07-740.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-750 Commission discretion to accept settlement, impose conditions, or reject a proposed settle-

ment. (1) The commission may decide whether or not to consider a proposed settlement. The commission will approve settlements when doing so is lawful, when the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.

(2) If the commission considers a proposed settlement, it may accept the proposed settlement, with or without conditions, or may reject it.

(a) If the commission rejects a proposed settlement, the litigation returns to its status at the time the settlement was offered and the time for completion of the hearing will be extended by the elapsed time for consideration of the settlement and may take into account the need to address other pending business before the commission.

(b) If the commission accepts a proposed settlement upon conditions not proposed in the settlement, the parties may seek reconsideration of the decision and the settling parties must within the time for reconsideration state their rejection of the conditions. If a party rejects a proposed condition, the settlement is deemed rejected and (a) of this subsection applies.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-883 Compliance filing—Filing requirements; timing; commission action. A party must strictly limit the scope of its compliance filing to the requirements of the final order to which it relates. If the commission finds that a compliance filing varies from the requirements or conditions of the order authorizing or requiring it, either by falling short of or by exceeding the authorization, conditions, or requirements of the order, the commission may reject the filing unless it has preapproved the variance. If the commission accepts in error a compliance filing that does not comply with the order authorizing the filing, the commission's acceptance does not validate the noncompliant elements of the filing.

(1) **Filing requirements.**

(a) A party who files a compliance filing must make its filing consistent with the filing requirements of the docket authorizing the filing, i.e., file the required number of copies, and serve the filing on all other parties in the docket.

(b) A compliance filing must include the following:

~~((a))~~ (i) A cover letter that identifies the order to which the filing relates;

~~((b))~~ (ii) All required tariff sheets; and

~~((c))~~ (iii) Work papers that clearly demonstrate the derivation of the proposed tariffs.

(2) **Service requirement.** A party who makes a compliance filing must serve it on each party to the proceeding in which the compliance filing is authorized or required. Service must be initiated on the same day as the filing.

(3) **Timing; effective date.**

(a) The commission will state in its final order authorizing or requiring a compliance filing the date by which the compliance filing must be made and the effective date that should appear on any tariff sheets that are required as part of a compliance filing. The commission may state the amount of time it will require to examine any proposed compliance tar-

iff sheets between their filing and their proposed effective date.

(b) A compliance filing does not become effective automatically on its stated effective date. Commission action is required before any compliance filing can be effective. The commission may enter an order approving a compliance filing or taking other appropriate action. The commission may delegate to the secretary, by written authorization in individual proceedings, the authority to approve or take other appropriate action with respect to a compliance filing.

(4) Commission action on compliance filing.

(a) The commission may enter an order in any proceeding in which a compliance filing is authorized or required that:

- (i) Approves the compliance filing; or
- (ii) Rejects a compliance filing or any portion of the filing that apparently fails to comply.

(b) If the commission rejects all or part of a compliance filing, the party may refile. The commission may impose conditions on refileing.

(c) If the commission approves a compliance filing, but later discovers that it failed to recognize that the compliance filing was, in fact, incomplete or did not fully comply with the order authorizing or requiring the filing, the commission may take any necessary and lawful steps to secure full compliance.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-900 Open public meetings. (1) **Regular meetings.** The commission will hold regular meetings to conduct business under chapter 42.30 RCW, the Open Public Meetings Act. The commission generally schedules two business meetings (will begin at 9:30 a.m., on the second, fourth, and fifth Wednesday of each month) per month, usually on Wednesday at 9:30 a.m. in the commission's office in Olympia, Washington. (If the regular meeting day is a legal holiday, the regular meeting will be held on the next business day or on an alternate schedule published in the Washington State Register.

~~(2) Changes to regular meetings. Regular meetings may be canceled. The commission may change the time and place of regular meetings from the information set out in this section. The current times and places are published, as required, in the Washington State Register, on the commission's internet web site, and are available through telephone inquiry.~~

~~(3)) The specific time and place of each business meeting are published, as required, in the *Washington State Register* and on the commission's internet web site. The commission may cancel a meeting or change the time or place of a meeting and will publish a notice of these changes on its web site.~~

(2) **Special meetings.** The commission may convene special meetings under RCW 42.30.080.

(3) **Recessed meetings.** The commission may recess a regular or special meeting and reconvene it at a different time or location.

(4) **Agenda.** The commission ~~((secretary))~~ will distribute an agenda for each ~~((open public))~~ regular business meet-

ing. The commission will make its best effort to compile and publish a complete agenda ~~((but)).~~ It may amend its agenda after it is published((;)) and may take up matters that do not appear on its published agenda. The agenda ((is)) and any addendum are posted to the commission's internet site ((at www.wate.wa.gov. Persons without internet access capability may request the commission records center to)). The commission will provide a copy of the agenda via U.S. mail on request.

(a) **"Discussion" agenda.** ~~((In general, the agenda will identify each item scheduled for discussion and action, as relating to utility regulation under Title 80 RCW; as relating to transportation regulation under Title 81 RCW; or "other." The secretary will group similarly identified items together on the agenda.))~~ The discussion agenda includes items that are scheduled for discussion and action by the commissioners. This part of the agenda is further divided into "utilities" and "transportation" sections.

(b) **"No action" agenda.** ~~((Any request, proposal, or other filing that can take effect without commission action may be placed on a "no action required" portion of the agenda.))~~ The no-action agenda includes items that appear to be noncontroversial and, by law, may take effect without action by the commission. Any item on ((this portion of the agenda)) the no-action agenda will be ((discussed)) moved to the discussion agenda at the request of any commissioner((('s request, and)). The commission may take such action on the item as it deems appropriate.

(c) **"Consent" agenda.** ~~The ((secretary may place any item that the secretary believes to be noncontroversial on a "consent agenda" portion of the open meeting agenda. The commission will ask at the meeting if any person wants to address any)) consent agenda includes items that appear to be noncontroversial and, by law, require action by the commission to take effect. Any item on the consent agenda ((item, and an item)) will be ((removed from the consent agenda for individual discussion and action)) moved to the discussion agenda at the request of any commissioner. ((Items on the consent agenda may be collectively moved for approval)) The commission will act on the items on the consent agenda by a single motion and ((may be collectively approved by)) a single vote of the commission.~~

(5) **Deadlines and schedules.**

(a) The commission generally schedules items for consideration at the last regular business meeting before the item would take effect by law. The commission generally schedules items without a stated effective date, such as petitions, for consideration thirty days after filing.

(b) If a company makes a filing and requests action by the commission before the statutory or required notice period is complete, the commission will schedule consideration of the request at its next regular business meeting, if the request is filed and complete at least five business days before the meeting. Items filed less than five business days before a meeting will generally be scheduled for the second business meeting after the filing.

(c) The commission will publish the agenda for each regular business meeting two business days before the meeting.

(d) The commission may publish an addendum to the agenda prior to the beginning of the meeting.

~~(6) Staff contact.~~ ~~((A commission))~~ For each item on the discussion agenda, the commission designates a staff member who is ~~((ordinarily))~~ assigned to analyze and ~~((, if appropriate,))~~ present ~~((each open meeting item))~~ a recommendation to the commission at the open meeting. The staff person and a contact number are identified in the ~~((draft))~~ agenda. Persons interested in open meeting agenda items may discuss them with staff, subject to time availability. ~~((Any person interested in an item on the open meeting agenda may address the item during the meeting.))~~

~~((6))~~ **(7) Public comment.** The commission will provide an opportunity at the beginning of each business meeting for members of the public to request that items on the consent or no-action sections of the agenda be moved to the discussion section. The commission will provide an opportunity for public comment on each discussion agenda item before taking action on that item.

(8) Orders. The commission may direct the secretary to enter any order or sign any document necessary to implement an open meeting decision by the commissioners.

~~((7))~~ **(9) Modifications.** The commission may exercise its discretion to modify the procedures in this section when appropriate to the conduct of its business.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-910 Informal complaints. (1) **How to make an informal complaint.** Any person may make an informal complaint to the commission about any business that the commission regulates. A person may make an informal complaint by telephone, correspondence, ~~((facsimile))~~ fax transmission, ((or electronic mail)) e-mail, or by using the complaint form available on the commission's web site.

(2) **Contents.** An informal complaint must identify the business or person to whom the complaint pertains. An informal complaint should:

(a) Present all facts that are needed for the commission to understand the nature of, and reason(s) for, the complaint;

(b) Describe the acts or omissions that led to the complaint, with all relevant dates;

(c) Cite all relevant statutes or rules, if the person who files the complaint knows them.

(3) **Commission response; result.** Commission employees assigned to assist consumers may discuss an informal complaint with the affected persons, by correspondence or otherwise. ~~((The commission will try to assist the parties to resolve the informal complaint by agreement without the need for a formal complaint, hearing, and order.))~~ The commission will investigate to determine if there are violations of any applicable rule or law and if so, will work with the parties to ensure compliance. The commission encourages the informal resolution of disputes whenever possible. An informal complaint will not result in a hearing or in an order that compels a person to do something or forbids a person from doing something.

(4) ~~((Conversion of))~~ **Uniform Mediation Act not applicable.** The Uniform Mediation Act (chapter 172, Laws of 2005, codified as chapter 7.07 RCW) does not apply to the commission's informal complaint resolution process.

(5) Filing of formal complaint regarding subject of informal complaint ~~((to formal complaint))~~. Making an informal complaint does not prevent any party from filing a formal complaint ~~((, which may constitute an application for an adjudicative proceeding))~~. The commission may initiate a formal complaint proceeding on its own initiative. The commission will stop processing an informal complaint when a person filing an informal complaint files a formal complaint.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-07-930 Declaratory orders under RCW 34.05.240. (1) **Petition.** Any interested person may petition the commission for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the commission, as provided by RCW 34.05.240.

(a) **Format.** Petitions for declaratory orders under RCW 34.05.240 must conform in style and substance to the requirements for other forms of adjudicative pleading as specified in Part III, subpart A of this chapter.

(b) **Relationship with adjudications.** The commission will dismiss a petition for declaratory order when issues in the petition are at issue in a pending adjudication. The commission will reject a single pleading that seeks a declaratory order or, in the alternative, an adjudicative order. The filing party must choose which process it deems appropriate.

(2) **Notice.** The commission will give notice of any petition for declaratory order within fifteen days after the commission receives the petition. The notice will be served on all persons who are required by law to be given notice and on any other person to whom the commission deems notice to be desirable.

(3) **Response.** Any person may respond to a petition for declaratory order by filing an answer within twenty days after the petition is filed or at such other time as the commission may establish by notice. The commission will not enter a declaratory order under RCW 34.05.240 if any person asserts in response to a petition for declaratory order filed pursuant to RCW 34.05.240 that their rights might be substantially prejudiced by entry of a declaratory order, supports such assertion by sworn affidavit demonstrating the potential for substantial prejudice, and does not consent in writing to the determination of the matter by a declaratory order proceeding under RCW 34.05.240.

(4) **Conversion of proceeding.** The commission may convert the form of a declaratory order proceeding as provided under RCW 34.05.070 and conduct the matter as an adjudicative proceeding under Part III, subpart A of this chapter.

(5) **Commission action on petition.** Within thirty days after it receives a petition for declaratory order, the commission will:

(a) Enter a declaratory order;

(b) Notify the petitioner that the commission will not enter a declaratory order under RCW 34.05.240, and state reasons for its action;

(c) Set a specified time, no later than ninety days after the day the petition was filed, by which the commission will enter a declaratory order; or

(d) Set a reasonable time and place for a hearing. If a hearing is held on a petition for declaratory order under RCW 34.05.240, it must be held no more than ninety days after receipt of the petition. If a hearing is held, the commission will give at least seven days' notice to the petitioner, to all persons to whom notice is required by law, and to any other person it deems desirable. The notice will include the time, place, and a statement of the issues involved.

(6) **Extension of time.** The commission may for good cause extend the times specified in subsection (5)(c) and (d) of this section.

(7) **Commission action after hearing.** If a hearing is held as provided in subsection (5)(d) of this section, the commission will within a reasonable time:

(a) Enter a declaratory order; or

(b) Notify the petitioner that the commission will not enter a declaratory order and state the reasons for its action.

(8) **Service.** The commission will serve its order or notice upon all persons who are required to receive notice under subsection (2) of this section.

**WSR 06-08-065
PROPOSED RULES**

DEPARTMENT OF LICENSING

[Filed March 31, 2006, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-17-036.

Title of Rule and Other Identifying Information: WAC 308-67-010.

Hearing Location(s): Dealer and Manufacturer Services, 2424 Bristol Court, 3rd Floor Conference Room, Olympia, WA 98502, on May 12, at 10:00 a.m.

Date of Intended Adoption: May 26, 2006.

Submit Written Comments to: Kim Johnson, Dealer Services, P.O. Box 9039, Olympia, WA 98507, e-mail kijohnson@dol.wa.gov, fax (360) 586-6703, by May 8, 2006.

Assistance for Persons with Disabilities: Contact Nicole Cope by May 8, 2006, TTY (360) 664-8885 or (360) 664-6455.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To establish the amount of the filing fee to be submitted by a licensed motorcycle dealer when initiating a protest against the manufacturer for violations of chapter 46.94 RCW.

Reasons Supporting Proposal: This WAC promulgation makes the filing fee for petitioning the department of licensing concerning franchise disputes under WAC 308-67-010 consistent for licensed vehicle dealers and licensed motorcycle dealers.

Statutory Authority for Adoption: Section 3(1), chapter 354, Laws of 2003.

Statute Being Implemented: RCW 46.96.210 and 46.93.190.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Cal Sanders, 2424 Bristol Court, Olympia, WA 98502, (360) 664-6459; Implementation: Chuck Coach, 2424 Bristol Court, Olympia, WA 98502, (360) 664-6453; and Enforcement: Daniel Devoe, 2424 Bristol Court, Olympia, WA 98502, (360) 664-6451.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no small business impact.

A cost-benefit analysis is not required under RCW 34.05.328. There is not impact for the department of licensing or small business.

March 27, 2006

D. A. Devoe

Administrator

AMENDATORY SECTION (Amending WSR 90-03-022, filed 1/10/90, effective 2/10/90)

WAC 308-67-010 Petition fee—Vehicle manufacturers and dealers. The filing fee for petitioning the department of licensing concerning franchise disputes pursuant to ((sections 4, 11(6), and 18(4), chapter 415, Laws of 1989, shall be)) chapters 46.93 and 46.96 RCW is \$500.00.

WSR 06-08-068

PROPOSED RULES

PROFESSIONAL EDUCATOR

STANDARDS BOARD

[Filed April 3, 2006, 8:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-05-060.

Title of Rule and Other Identifying Information: WAC 181-78A-700(5) Pilot program established, this change is to the first peoples' language/culture certification pilot program.

Hearing Location(s): Red Lion Inn, 2525 North 20th Avenue, Pasco, WA 99301, on May 17 - 18, 2006, at 8:30 a.m.

Date of Intended Adoption: May 23, 2006.

Submit Written Comments to: Jennifer Wallace, P.O. Box 47236, Olympia, WA 98504-7236, e-mail jwal-lace@ospi.wednet.edu, fax (360) 586-4548, by May 10, 2006.

Assistance for Persons with Disabilities: Contact Jennifer Wallace by May 10, 2006, TTY (360) 664-3631 or (360) 725-6275.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Current WAC 181-78A-700(5) specifies the end of the 2005-2006 school year as the expiration date of the first peoples' language/culture certificate pilot program; thus the certificates themselves are presumed to expire at that time. However, WAC 181-

78A-700(9) requires that an end-of-program analysis, to be completed no later than October 31, 2006, include a recommendation on whether to extend, modify, or make permanent the program. Thus, since this report and recommendation will be considered during the 2006-2007 school year, the proposal here is to extend the expiration date of certificates earned prior to the end of the pilot program to the end of the 2006-2007 school year.

Reasons Supporting Proposal: Without an extension of the expiration date, teachers certified during the pilot phase will be uncertified, and thus lose their employment, during the interim period when the end-of-program analysis is being completed and recommendations regarding continuation of the program are considered. This proposed amendment will allow these teachers to remain certified until the decision regarding whether the program will be extended, modified, or made permanent is made.

Statutory Authority for Adoption: RCW 28A.410.210 and 28A.410.010.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Subsection (5) PILOT PROGRAM ESTABLISHED. A Washington state first peoples' language/culture teacher certification program is established in February 2003 and will continue through the 2005-06 school year. Pending the reporting requirements in subsection (9), the program will be extended, modified or made permanent, as determined by the professional educator standards board in consultation with participating sovereign tribal governments. First peoples' language/culture teacher certificates issued prior to June 30, 2006, shall expire June 30, 2007.

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Wallace, Old Capitol Building, 600 South Washington Street, Olympia, 98504, (360) 725-6275.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Wallace, P.O. Box 47236, Olympia, WA 98504-7236, phone (360) 725-6275, fax (360) 586-4548, e-mail jwallace@ospi.wednet.edu.

March 29, 2006

Nasue Nishida

Policy and Research Analyst

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-78A-700 First peoples' language/culture certification pilot program—Findings, purposes and intent—Definitions—Pilot program established—Tribal eligibility to participate—Pilot program requirements—

Assignment of teachers—Reports. (1) **FINDINGS.** The state board of education endorses the following:

(a) Teaching first peoples' languages can be a critical factor in successful educational experiences and promoting cultural sensitivity for all students. The effect is particularly strong for native American students;

(b) First peoples' languages are falling silent. Despite tribal efforts, first peoples' languages are not fully incorporated into the school systems. This is a loss to the cultural heritage of the affected tribes and to the cultural resources of Washington state;

(c) Recognition of native American languages under RCW 28A.230.090(3) and 28B.80.350(2), as satisfying state or local graduation requirements and minimum college admission requirements, while concentrating on promoting a positive impact on student learning through state policies, is insufficient to meet the educational needs of native American students;

(d) The potential to have a positive impact on student learning is in part dependent on the willingness of the local education agency to collaborate with the sovereign tribal government's language/culture program;

(e) It is within the statutory authority of the state board of education to enhance the learning opportunities for all students by helping prevent the loss of first peoples' languages through assisting the state's sovereign neighbors to sustain, maintain or recover their linguistic heritage, history and culture;

(f) From the Multi-Ethnic Think Tank position statement, June 2001:

(i) "... A culturally inclusive pedagogy will ensure the success of all students, who will develop greater appreciation of other cultures and worldviews;"

(ii) "All students have prior experiences that frame their worldview; learn from childbirth and are lifelong learners; can academically achieve at high levels when they are appropriately taught; and are entitled to learn in a multicultural context;"

(g) Research has shown that students who study another language may benefit in the following ways: Greater academic success in other areas of study, including reading, social studies, and mathematics; a clearer understanding of the English language including function, vocabulary and syntax; and an increase on standardized test scores, especially in verbal areas;

(h) From the Native American Languages Act, Public Law 101-477, Section 102, 1990:

(i) "The traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;"

(ii) "Languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people"; and

(i) There are many sovereign tribal nations in the state of Washington and they serve the needs of many groups of first peoples, each possessing unique languages, cultures and worldviews.

(2) **PURPOSES.** The purpose of this section is to establish a pilot program to accomplish the following goals:

(a) To honor the sovereign status of tribal governments in their sole expertise in the transmission of their indigenous languages, heritage, cultural knowledge, customs, traditions and best practices for the training of first peoples' language/culture teachers;

(b) Contribute to a positive impact on student learning by promoting continuous improvement of student achievement of the sovereign tribal government's language/culture learning goals, as established by each sovereign tribal government's language/culture program, and by supporting the goals for multicultural education included in the 2001 position statement developed by the Washington state Multi-Ethnic Think Tank;

(c) Contribute to the preservation, recovery, revitalization, and promotion of first peoples' languages and cultures;

(d) Meaningfully acknowledge that language is inherently integral to native American culture and ways of life;

(e) Implement in a tangible way the spirit of the 1989 Centennial Accord between Washington state and the sovereign tribal governments in the state of Washington.

(f) Provide a mechanism for the state board of education to recognize tribally qualified language/culture teachers as eligible to receive a Washington state first peoples' language/culture teaching certificate; and

(g) Provide the opportunity for native American students to learn first peoples' languages and cultures while at school and provide another avenue for students to learn core curricula through first peoples' worldviews.

(3) **INTENT.** It is the intent of the state board of education to work in collaboration with the sovereign tribal governments of Washington state to establish a Washington state first peoples' language/culture teacher certification program on a pilot basis in order to:

(a) Act in a manner consistent with the policy as specified in the Native American Languages Act, P.L. 101-477 Sec. 104(1) "preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages";

(b) Act in a manner consistent with Washington state's government-to-government relationship with Washington state sovereign tribal governments and use the Washington state first peoples' language/culture certification pilot programs to model effective government-to-government relationships;

(c) Act in a manner consistent with the goal of the state Basic Education Act under RCW 28A.150.210;

(d) Act in a manner consistent with the following purposes of Public Law 107-110, "No Child Left Behind Act":

(i) "Holding schools, local education agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education," [Sec. 1002(4)];

(ii) "Providing children an enriched and accelerated educational program, including the use of schoolwide programs

or additional services that increase the amount and quality of instructional time," [Sec. 1002(8)];

(iii) "Promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content," [Sec. 1002(9)];

(iv) "...Supporting local education agencies, Indian tribes, organizations, postsecondary institutions and other entities to meet the unique education, culturally related academic needs of American Indian and Alaskan Native Students" [Sec. 7102(a)];

(e) Act on its involvement with and adoption of the 1991 joint policy statement on Indian education:

"K-12 American Indian dropout prevention is a priority of schools. Effective education needs to be implemented throughout the K-12 school system if the American Indian student is to achieve academic and personal success";

(f) Acknowledge that there is a public responsibility to make available to all students in the state of Washington an accurate and balanced study of the American Indian experiences with and contributions to life on this continent;

(g) Act on the following state board beliefs:

(i) In order to meet the needs of all students, highly qualified teachers are required;

(ii) All state board of education policies and activities should meet the needs of the state's diverse student population;

(iii) In order for all students to achieve at high levels, multiple learning styles and needs must be supported; and

(h) Act on the following goals from the state board's 2002-05 work plan:

(i) Professional education and certification requirements are aligned with education reform and support a positive impact on student learning;

(ii) All students shall be provided equitable educational opportunities.

(4) DEFINITIONS.

(a) "Positive impact on student learning" shall mean:

(i) The same as under WAC 180-78A-010(8) [181-78A-010(8)] and 180-16-220 (2)(b); and

(ii)(A) Supporting the goal of basic education under RCW 28A.150.210, "...to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives...";

(B) Promoting continuous improvement of student achievement of the state learning goals and the sovereign tribal government's language/culture learning goals as established by each sovereign tribal government's language/culture program;

(C) Recognizing nonacademic student learning and growth related, but not limited, to: Oral traditions, community involvement, leadership, interpersonal relationship skills, teamwork, self-confidence, resiliency, and strengthened unique cultural identities;

(iii) Developing greater appreciation of other cultures and worldviews;

(b) A "culturally sensitive environment" honors the unique history, culture, values, learning styles, and community of the student. For example, to demonstrate the value of

the language and culture, the homeroom teacher participates in the language/culture classroom. A "culturally sensitive environment" also includes those provisions as outlined in the Washington state joint policy on equity in education, revised in May 2000.

(c) For the purpose of this section, "highly qualified teachers" shall mean those teachers who meet the standards of the sovereign tribal government's language/culture program.

(5) **PILOT PROGRAM ESTABLISHED.** A Washington state first peoples' language/culture teacher certification program is established in February 2003 and will continue through the 2005-06 school year. ~~((At the end of the 2005-06 school year))~~ Pending the reporting requirements in subsection (9) of this section, the program will be extended, modified or made permanent, as determined by the ~~((state board of education))~~ professional educator standards board in consultation with participating sovereign tribal governments. First peoples' language/culture teacher certificates issued prior to June 30, 2006, shall expire June 30, 2007.

(6) **TRIBAL ELIGIBILITY TO PARTICIPATE.** Any sovereign tribal government in the state of Washington shall be eligible to participate individually on a government-to-government basis in the pilot program.

(7) **PROJECT REQUIREMENTS.**

(a) Each sovereign tribal government will appoint and certify individuals who meet the tribe's criteria for certification as instructors in the Washington state first peoples' language/culture pilot program.

(b) Each sovereign tribal government's language/culture project shall submit to the state board of education the following information for each eligible language/culture teacher desiring to participate in the pilot project:

(i) Written documentation that each designated teacher has completed the sovereign tribal government's language/culture teacher certification program;

(ii) Written documentation that each designated teacher has completed the background check required under RCW 28A.410.010 and WAC 180-79A-150 [181-79A-150] (1) and (2);

(iii) Written documentation that each designated teacher has completed a course on issues of abuse as required by RCW 28A.410.035 and WAC 180-79A-030(6) [181-79A-030(6)];

(iv) Designation of which language(s), or dialects thereof, shall be listed on the Washington state first peoples' language/culture certificate;

(c) After meeting the requirements of subsection (8)(b) of this section and receiving state board of education approval, the office of the superintendent of public instruction shall issue each teacher a Washington state first peoples' language/culture teaching certificate;

(d) To support a positive impact on student learning, the local education agency in consultation with the sovereign tribal government's language/culture program is strongly encouraged to provide:

(i) A minimum of one contact hour per day, five days a week;

(ii) Access to the same students from year to year, to the extent possible, so that students who receive instruction dur-

ing the first year of the project can continue to receive instruction throughout the three years of the project;

(iii) A culturally sensitive environment as defined in subsection (4)(b) of this section; or

(iv) Some combination of (d)(i), (ii), and (iii) of this subsection which will allow a positive impact on student learning;

(e) To support a positive impact on student learning, the sovereign tribal government's language/culture program will provide written documentation of how teaching the first peoples' language/culture has supported the promotion of continuous improvement of student achievement of the program learning goals as established by each sovereign tribal government's language/culture program;

(f) To support a greater understanding of the government-to-government relationship, the professional development and certification committee of the state board of education and the professional educator standards board are strongly encouraged to make site visits and attend meetings with the local education agency and the sovereign tribal government's language/culture program;

(g) Nothing in this section shall be interpreted as precluding any eligible tribe in consultation with the state or in consultation with any local education agency from entering into an inter-governmental agreement or compact related to the teaching of first peoples' languages and cultures in order to address unique issues related to individual sovereign tribal governments.

(8) **ASSIGNMENT OF TEACHERS.**

(a) The holder of a Washington state first peoples' language/culture teacher certificate shall be deemed qualified to be a teacher of first peoples' language/culture with the ability to meet individual tribal competency criteria for language/culture, history, and English.

(b) A Washington state first peoples' language/culture teacher certificate qualifies the holder to accept a teaching position in a public school district.

(c) The holder of a Washington state first peoples' language/culture teacher certificate who does not also hold an initial or residency certificate shall be assigned to teach only the language(s)/culture(s) designated on the certificate, and no other subject.

(d) The Washington state first peoples' language/culture teacher certificate is recognized by the state of Washington for as long as the teacher holds a valid language/culture certificate from a participating sovereign tribal government.

(e) A Washington state first peoples' language/culture teacher certificate will serve as the endorsement in first peoples' language/culture for anyone holding an initial or residency certificate.

(9) **REPORTS.**

(a) Annually, for the duration of the pilot program, each participating tribe shall submit a report to the state board of education with documentation of how its particular project is having a positive impact on student learning.

(b) Not later than October 31, 2006, the professional development and certification committee of the state board of education, in consultation with the participating sovereign tribal governments and the professional educator standards

board, shall create and submit a report to the state board of education with the following information:

- (i) An end of program analysis of the positive impact on student learning of each pilot project;
- (ii) An appraisal of the government-to-government relationships established under the program, at both the state and local levels; and
- (iii) The report shall include a recommendation on whether to extend, modify or make permanent the Washington state first peoples' language/culture teacher certification pilot program.

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

WSR 06-08-083

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed April 4, 2006, 8:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-11-011.

Title of Rule and Other Identifying Information: New chapter 478-137 WAC, Use of University of Washington, Bothell and Cascadia Community College joint facilities.

Hearing Location(s): Room LB1 205, Library/Media Center, University of Washington, Bothell/Cascadia Community College, Bothell, WA, on May 17, 2006, at 12:00 noon.

Date of Intended Adoption: June 8, 2006.

Submit Written Comments to: Rebecca Goodwin Dearth, Director of Rules Coordination, Rules Coordination Office, Box 355509, Seattle, WA 98195, e-mail rules@u.washington.edu, fax (206) 221-6917, by May 17, 2006.

Assistance for Persons with Disabilities: Contact UW Disability Services Office by May 5, 2006, TTY (206) 543-6452 or (206) 543-6450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The University of Washington, Bothell (UWB) and Cascadia Community College (CCC) share Washington state's only colocated higher education campus. The colocation agreement provides that the institutions have dedicated and joint building spaces. UWB has been able to govern operations of its dedicated campus facility use under chapter 478-136 WAC, Use of University of Washington facilities, but there are currently no rules to govern the use of spaces shared with CCC. These new rules would allow the institutions to improve the efficiency and effectiveness of shared campus space.

Reasons Supporting Proposal: The University of Washington and the Cascadia Community College are coordinating the effort to promulgate these rules jointly, under separate agency authorization.

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130.

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

Name of Proponent: University of Washington, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steven G. Olswang, Interim Chancellor, UW Bothell, UW1 260G, UW Bothell, WA, (425) 352-5220.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed chapter 478-137 WAC does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed chapter 478-137 WAC is not considered a significant legislative rule by the University of Washington.

March 31, 2006

Rebecca Goodwin Dearth

UW Director of

Rules Coordination

Chapter 478-137 WAC

USE OF JOINT UNIVERSITY OF WASHINGTON, BOTHELL, AND CASCADIA COMMUNITY COLLEGE FACILITIES

NEW SECTION

WAC 478-137-010 Purpose. The colocated campus of the University of Washington, Bothell, and Cascadia Community College operates joint facilities that provide benefits to each educational institution. The purpose of this chapter is to define the facilities jointly operated by the institutions and to ensure that these joint facilities are reserved primarily for activities related to the educational missions of the institutions. Further, the joint facilities may be used for a variety of activities, providing the primary function the facility or space was intended to serve is not compromised. Reasonable time, place, and manner restrictions may be placed on the use of joint facilities.

The rules set forth in this chapter have been jointly developed and agreed upon by the two institutions of higher education, and adopted and codified in separate chapters of the Washington Administrative Code by each of the institutions. Rules for the use of dedicated facilities of the University of Washington, Bothell, and Cascadia Community College are governed by chapter 478-136 WAC and chapter 132Z-140 WAC, respectively.

NEW SECTION

WAC 478-137-020 Definitions. (1) "College" shall mean Cascadia Community College.

(2) "Institutions" shall mean University of Washington, Bothell, and Cascadia Community College.

(3) "Joint facilities" shall mean those structures, spaces, campus grounds, and parking lots operated jointly by the institutions. Specific rules also apply to parking lots (chapters 132Z-116 and 478-117 WAC).

(4) "University" shall mean University of Washington, Bothell.

(5) "Use of facilities" includes, but is not limited to: The holding of classes, events, the posting and removal of signs, all forms of advertising, commercial and community activities, and charitable solicitation.

(6) "Wetlands" shall mean campus grounds to the east of Campus Way N.E. and east of 110th N.E. between N.E. 185th and Beardslee Blvd., and the Chase House.

NEW SECTION

WAC 478-137-030 Administrative authority. (1) The board of regents of the University of Washington and the board of trustees for Cascadia Community College have delegated to the chancellor of the university and the president of the college, respectively, the authority to regulate the use of facilities on the colocated campus.

(2) Under this authority, the chancellor of the university and the president of the college designate the coordination for use of joint facilities to an appointed joint committee on facility use and designate the use of the wetlands to the wetlands oversight committee. The chancellor of the university and the president of the college shall each appoint representatives to the joint committee on facility use to develop suggested event procedures. Each designee shall review the use of the facilities; establish administrative procedures governing such use that are consistent with these rules; approve or disapprove requested uses and establish policies regarding fees and rental schedules unique to joint facilities as appropriate. Additionally, the joint committee on facility use shall act as an appeals board for decisions of the wetlands oversight committee regarding wetlands use requests. Inquiries concerning the use of joint facilities may be directed to:

University of Washington, Bothell
Office of Administrative Services
Facilities Use Coordinator
Box 358535
18115 Campus Way N.E.
Bothell, WA 98011
(Phone: 425-352-3556 or e-mail: facuse@uwb.edu);

and

Cascadia Community College
Finance and Operations Office
Director of Auxiliary Services and Capital Projects
18345 Campus Way N.E.
Bothell, WA 98011
(Phone: 425-352-8269).

(3) Preliminary approval of an event by an academic or administrative unit of the university or college implies that a responsible official has applied his or her professional judgment to the content of the program, the qualifications of the individuals conducting the event, the manner of presentation, and has concluded that the event is consistent with the teaching, research, and/or public service mission of the institutions.

(4) Final approval of a joint facilities use request by the appropriate designee on the use of joint facilities implies that the designee has reviewed the proposed event with regard to: The rules in this chapter; the direct and indirect costs to the institutions; environmental, health and safety concerns; wear

and tear on the facilities; appropriateness of the event to the specific facility; and the impact of the event on the institutions, surrounding neighborhoods and the general public.

(5) The institutions will not make its joint facilities or services available to organizations that do not assure the institutions that they will comply with the terms of the Americans with Disabilities Act (ADA, 42 U.S.C. 12132, 12182) and the Rehabilitation Act of 1973 (RA, 29 U.S.C. 794). Uses must not impose restrictions nor alter facilities in a manner which would violate the ADA or RA.

(6) The institutions will not make their joint facilities or services available to organizations which do not assure the institutions that they do not discriminate against any person because of race, color, religion, national origin, sex, sexual orientation, age, handicap, or status as a Vietnam era or disabled veteran, except where such organizations have been exempted from provisions of applicable state or federal laws or regulations.

(7) Individuals who violate the institutions' use of joint facilities regulations and approved users who violate the institutions' contract terms for use of joint facilities may be advised of the specific nature of the violation and individuals may be requested to leave the property or be refused future use of joint facilities. Failure to comply with a request to leave the property may subject such individuals to arrest and criminal prosecution under provisions of applicable state, county, and city laws.

NEW SECTION

WAC 478-137-040 Use of joint facilities. When allocating use of joint facilities, the highest priority shall be given to activities specifically related to the institutions' missions. No arrangements will be made that may interfere with or operate to the detriment of the institutions' own instruction, research, public assembly, and student activities. In particular, joint facilities are used primarily for:

(1) The regularly established instruction, research, public assembly, and student activities of the institutions and their departments.

(2) Cultural, educational, or recreational activities of the students, faculty, or staff of the university or college.

(3) Short courses, conferences, seminars, or similar events, when arranged under the sponsorship of the institutions or their departments.

(4) Public events of a cultural or professional nature brought to the campus at the request of institution departments or committees or institutionally sanctioned student organizations and presented with their active sponsorship and active participation.

(5) Activities or programs sponsored by other educational institutions, by state or federal agencies, by charitable agencies or civic or community organizations whose activities are of widespread public service and of a character appropriate to the institutions. However, joint facilities will not be made available for instructional or related purposes that compete with courses or programs offered by the institutions.

(6) Faculty, staff, registered or official student organizations of the institutions may use joint facilities to hold events for university or college faculty, staff and students provided

such uses comply with these rules on use of joint facilities. These events do not, however, require either preliminary approval by an academic or administrative unit or final approval by the joint committee on facility use.

(7) Faculty, staff, registered or official student organizations of the institutions may use joint facilities to hold events to which the general public is invited when the event has preliminary approval by an academic or administrative unit of one of the institutions and final approval of the appropriate designee. The appearance of an invited speaker on campus does not represent an endorsement by the institutions of the speaker's views.

(8) Noninstitution organizations and individuals may use joint facilities to hold events which have received preliminary approval by an academic or administrative unit of one of the institutions and final approval of the appropriate designee. The general public may be invited to such events.

(9) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and proper maintenance of the facilities. Subject to the same limitations, joint facilities shall be made available for assignment to individuals or groups within the institutions. Arrangements by both organizations and individuals must be made through the appropriate facility designee. Allocation of space shall be made in accordance with these rules and on the basis of time, space, priority of request and the demonstrated needs of the applicant.

NEW SECTION

WAC 478-137-050 Limitations on use. (1) Freedom of expression is a highly valued and indispensable quality of university and college life. However, joint facilities may not be used in ways that obstruct or disrupt the institutions' operations, the freedom of movement, or any other lawful activities. Additionally, use of joint facilities may be subject to reasonable time, place and manner restrictions.

(2) Joint facilities may be used for events and forums regarding ballot propositions and/or candidates who have filed for public office providing the event has received preliminary approval by an administrative or academic unit of one of the institutions and final approval by the appropriate facility designee. There are, however, certain limitations on the use of joint facilities for these political activities.

(a) First priority for the use of joint facilities shall be given to regularly scheduled university and college activities.

(b) Joint facilities may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office only when the full rental cost of the facility is paid. Use of state funds for payment of facility rental costs is prohibited.

(c) Forums or debates may be scheduled at full facility rental rates if all parties to a ballot proposition election or all candidates who have filed for office for a given position, regardless of party affiliation, are given equal access to the use of facilities within a reasonable time.

(d) No person shall solicit contributions on joint property for political uses, except in instances where this limitation conflicts with applicable federal law regarding interference with the mails.

(e) Public areas outside joint facility buildings may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office, excluding solicitation of funds, provided the other normal business of the institutions is not disrupted and entrances to and exits from buildings are not blocked.

(f) Joint facilities or services may not be used to establish or maintain offices or headquarters for political candidates or partisan political causes.

(3) Joint facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities are consistent with the institution's mission, as determined by the appropriate designee.

(4) Nothing in these rules is intended to alter or affect the regular advertising, promotional, or underwriting activities carried on, by, or in the regular media or publications of the institutions. Policies concerning advertising, promotional or underwriting activities included in these media or publications are under the jurisdiction of and must be approved by their respective management or, where applicable, advisory committees, in accordance with applicable state and federal laws.

(5) In accordance with WAC 478-137-010 the institutions will make their joint facilities available only for purposes related to their educational missions, including but not limited to instruction, research, public assembly, community programs, and student activities. When permission is granted to use joint facilities for approved instructional or related purposes, as a condition of approval, the user of joint facilities agrees to include in all materials nonendorsement statements in the form approved by the appropriate designee. "Materials" includes all communications, advertisement, and any other printed, electronic, or broadcast/telecast information related to the user's activities offered in joint facilities. The designee will determine the content, size of print and placement of the nonendorsement language. The institutions will not make their joint facilities available for instructional or related purposes that compete with courses or programs offered by the university or college.

(6) Solicitation, or distribution of handbills, pamphlets and similar materials by anyone, whether a member of the university and college community or of the general public, is not permitted in those areas of campus to which access by the public is restricted or where such solicitation or distribution would significantly impinge upon the primary business being conducted.

(7) Electronic amplification on the grounds of the campus shall not be permitted unless approved by the joint committee on facility use.

(8) No person may use joint facilities to camp. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. Violators are subject to arrest and criminal prosecution under applicable state, county and city laws. This provision does not prohibit use of joint facilities where a university or college employee remains overnight to fulfill the responsibilities of his or her position.

(9) The institutions are committed to maintaining a safe and healthful work and educational environment for all fac-

ulty, staff, students, and visitors. In accordance with the Washington Clean Indoor Air Act (chapter 70.160 RCW), the Use of University of Washington facilities (chapter 478-136 WAC) and Cascadia Community College facility use (chapter 132Z-140 WAC), the following smoking policy is intended to protect nonsmokers from exposure to smoke in their campus-associated environments and to protect life and property against fire hazards:

(a) Smoking is prohibited inside all university or college vehicles, inside buildings and parking structures owned or occupied by the university or college and/or used by university or college faculty, staff or students and at any outside areas or locations that may directly or indirectly affect the air supply of buildings or carry smoke into buildings.

(b) The institutions may designate specific outdoor locations as smoking areas. Signage will be placed to indicate the designated locations.

(c) Any student, staff, or faculty member who violates the smoking policy may be subject to disciplinary action. In addition, violations of the smoking policy may be subject to appropriate enforcement.

(10) Alcoholic beverages may be possessed, sold, served, and consumed at joint facilities only if the procedures set forth in this section are followed.

(a) The appropriate permits/licenses for possession, sale, service, and consumption of alcohol must be obtained from the Washington state liquor control board.

(b) Permits/licenses must be displayed during the event and all other guidelines and restrictions established by the Washington state liquor control board must be followed.

(c) Alcoholic beverages may be possessed, sold, served, and consumed at joint facilities leased to a commercial tenant under a lease that includes authorization for the tenant to apply and hold a license issued by the Washington state liquor control board.

(d) Except as provided in (c) of this subsection, alcoholic beverages may be possessed, sold, served, and consumed at joint facilities only under permits/licenses issued by the Washington state liquor control board and only as follows:

(i) Events at which alcohol is to be sold must be approved by the joint committee on facility use and an application to the committee must be accompanied by a request for written authorization under (e) or (f) of this subsection or proof that the seller holds an appropriate license; and

(ii) A university or college unit or an individual or organization applying for a permit/license must have obtained approval under (e) or (f) of this subsection; and

(iii) Sale, service, and consumption of alcohol is to be confined to specified room(s) or area(s) specified on the license or permit. Unopened containers may not be sold or served. No alcohol is permitted to be taken off-premises.

(e) Written authorization to apply for a special occasion license to sell alcoholic beverages at joint facilities must be obtained from the joint committee on facility use prior to applying for a special occasion license from the Washington state liquor control board. Authorization should be requested through the facilities use coordinator for the joint committee on facility use sufficiently in advance of the program to allow timely consideration. (Note: Some license applications must be filed with the Washington state liquor control board at

least thirty days or more before the event.) Written authorization to apply for such license shall accompany the license application filed with the Washington state liquor control board.

(f) Written authorization to apply for a banquet permit to serve and consume alcoholic beverages at joint facilities must be obtained from the university chancellor or college president prior to applying for the permit from the Washington state liquor control board. Authorization should be requested sufficiently in advance of the program to allow timely consideration. Written authorization to apply for such permit shall accompany the permit application filed with the Washington state liquor control board.

(g) Consumption, possession, dispensation, or sale of alcohol is prohibited except for persons of legal age.

NEW SECTION

WAC 478-137-060 Safety and liability. (1) It is the responsibility of any person or organization requesting the use of joint facilities to comply with all applicable policies, procedures, rules and regulations of the institutions, and applicable local, state and federal laws, including but not limited to fire, health and safety regulations.

(2) Permission to an organization not affiliated with one of the institutions or to a registered or official student organization of the university or college for the use of joint facilities is granted with the express understanding and condition that such organization assumes full responsibility for any loss, damage or claims arising out of such use.

When the event involves physical activity, or otherwise will increase the risk of bodily injury above the level inherent in the facilities to be used, proof of appropriate liability insurance coverage with limits of at least one million dollars per occurrence must be provided to the state office of risk management before approval for the requested use will be granted.

WSR 06-08-084

WITHDRAWAL OF PROPOSED RULES

SECRETARY OF STATE

(By the Code Reviser's Office)

[Filed April 4, 2006, 9:05 a.m.]

WAC 434-324-087, proposed by the secretary of state in WSR 05-19-063 appearing in issue 05-19 of the State Register, which was distributed on October 5, 2005, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 06-08-086
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 4, 2006, 9:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-20-069.

Title of Rule and Other Identifying Information: General reporting rules, classifications, audit and record-keeping, rates and rating system for Washington workers' compensation insurance, chapter 296-17 WAC.

Hearing Location(s): Department of Labor and Industries, Yakima Service Office, 15 West Yakima Avenue, Yakima, WA 98902, on May 9, 2006, at 1:30 p.m.; and at the Department of Labor and Industries Building, Room S130, 7273 Linderson Way S.W., Tumwater, WA 98501, on May 10, 2006, at 10 a.m.

Date of Intended Adoption: May 29, 2006.

Submit Written Comments to: Department of Labor and Industries, Bill Moomau, Classification Services, P.O. Box 44148, Olympia, WA 98504-4148, e-mail moom235@lni.wa.gov, fax (360) 902-4729, by 5 p.m., May 10, 2006.

Assistance for Persons with Disabilities: Contact office of information and assistance by May 8, 2006, TTY (360) 602-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will:

- Create a new classification for health care workers under the program administered by DSHS and HCQA;
- Create a new classification for clerical and administrative state government employees and revise three other state government classifications;
- Create a new classification for construction company estimators;
- Create three new subclassifications for the metal goods industry and eliminate numerous subclassifications;
- Create a new subclassification for construction debris haulers;
- Make minor amendments and house-keeping changes to thirty-eight classifications and subclassifications; and
- Repeal five classifications concerning door-to-door sales and metal goods.

Proposal establishes classification changes effective July 1, 2006: WAC 296-17-517, removes word "decorative," 296-17-521, clarifies wording regarding contractors at oil refineries, 296-17-536, describes mobile food vendors, 296-17-618, clarifies description of street vendors, 296-17-622, corrects 4101 to 4103, 296-17-649, removes sub for mechanical harvesting of shellfish, 296-17-64904, removes reference to 4808, 296-17-66003, adds references to 0101, 296-17-677, adds business types to this classification, 296-17-680, adds schools for deaf and blind, 296-17-681, adds schools for deaf and blind, 296-17-694, reword definition of shows, strikes two subcodes, 296-17-698, revise definition of

home health care services, 296-17-701, add special note for clerical and sales, 296-17-712, clarify sales definition, 296-17-713, clarify sales definition, 296-17-715, remove reference to mortgage brokers, 296-17-738, correct word "martial," and 296-17-777, remove note about assignments.

Proposed classification changes to become effective January 1, 2007: WAC 296-17-31013, creates exception rule for construction estimators, 296-17-31018, clarifies construction debris hauling, 296-17-513, changes 3404 to 3402, 296-17-516, removes subcode for building decorating, 296-17-557, changes 5209 to 3402, 296-17-568, changes 3404 to 3402, 296-17-57001, changes 3404 to 3402, 296-17-580, rewords metal goods description, 296-17-582, repeal classification 3404 for metal goods, 296-17-594, changes 3404 to 3402, 296-17-595, changes 3404 to 3402, 296-17-634, creates sub for construction debris hauling, 296-17-651, clarifies administrative duties of state government employees, 296-17-65802, create new classification for construction estimators, 296-17-669, repeal classification 5109 for metal goods, 296-17-670, changes 3404 to 3402, 296-17-67601, repeal classification 5208 for metal goods, 296-17-67602, repeal classification 5209 for metal goods, 296-17-67603, create new class for administrative state government employees, 296-17-67901, clarifies job duties of blue collar state government employees, 296-17-697, repeal classification for door-to-door sales, 296-17-704, add door-to-door sales to vacuum and sewing machine stores, 296-17-72202, strike chore services reported by HCQA, 296-17-72203, create new classification for chore services reported by HCQA, 296-17-724, add building decorating, 296-17-739, change 3404 to 3402, and 296-17-763, clarify description of duties of health care, and state government employees.

Reasons Supporting Proposal: Labor and industries is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or industries within the state and is permitted to review and make changes to the plan (RCW 51.16.035 and 51.16.100). The department has conducted a review of these classifications and reporting rules and determined these rules are in need of revision.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.035 and 51.16.100.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Bill Moomau, Tumwater, Washington, (360) 902-4774; Implementation and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In this case the agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.-310 (4)(f) and because the content of the rules is specifically dictated by statute described in RCW 34.05.310 (4)(e).

A cost-benefit analysis is not required under RCW 34.05.328. In this case, the agency is exempt from conducting a cost-benefit analysis since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.328 (5)(b)(vi) and because the content of the rules is specifically dictated by statute described in RCW 34.05.328 (5)(b)(v).

April 4, 2006

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 05-12-031, filed 5/24/05, effective 7/1/05)

WAC 296-17-31013 Building construction. (1) Does this same classification approach apply to building and construction contractors?

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

*Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing, roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses. The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the **multiple business** classification approach.*

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

(2) Who does this rule apply to?

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

(3) Can I have a single classification assigned to my business to cover a specific construction project?

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

(4) How do I request the single classification for one of my construction projects?

You should send your request to the attention of your account manager at the address below:

Department of Labor and Industries
P.O. Box 44144
Olympia, Washington 98504-4144

(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.

With this information we will estimate the premiums by classification.

Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).

Our next step in this process is to develop an average hourly rate for the project. We will use this information to select the single classification which will apply to this project.

Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.

(6) How will I know what classification will apply to my construction project?

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?

No, but you should call your account manager to verify what other classifications would apply to the project. The name and phone number of your account manager can be

found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors in good standing by confirming their status on the department's web site or contacting your account manager.

(9) Am I required to keep any special records of subcontractors that I use?

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;
- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;
- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the subcontractor being considered a covered worker for whom you must report hours.

(10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."

(11) I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site

cleanup in? ((If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean-up project in classification 0217 "concrete flat-work.") If your employees are collecting and removing construction site debris, you would report in classification 4305-22. If your employees are collecting and removing nonconstruction debris such as household junk, garden waste, basement debris, furniture and appliances, you would also report in classification 4305-22.

(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site? We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site? Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."

(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification? No, we will not permit

you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-31018 Exception classifications. (1) What are exception classifications?

In *WAC 296-17-31012* we discussed our classification policy. We described the process used to classify risk and stated that we assign the basic classification or basic classifications that best describe the nature of your company's business. While this policy is modeled after the policy used by private insurance carriers and is geared to administrative ease for you, we recognize that there are some duties or operations where your employees do not share the same general workplace hazards that your other employees are exposed to. To provide for those operations that are outside the scope of a basic classification, we have created three types of exception classifications listed below:

- Standard exception classifications,
- Special exception classifications, and
- General exclusion classifications.

(2) What are the standard exception classifications?

Standard exception classifications cover those employments that are administrative in nature and common to many industries. Employees covered by a standard exception classification cannot be exposed to any operative hazard of the business. If the language of the basic classification assigned to your business does not include these employments, you may be able to report them separately. The standard exception classifications are:

- Classification 4904 (*WAC 296-17-653*) "clerical office employment." This classification includes clerical, administrative, and drafting employees.
- Sales personnel classifications 6301 (*WAC 296-17-696*), 6302 (*WAC 296-17-697*), and 6303 (*WAC 296-17-698*) includes outside sales personnel and messengers.
- Classification 7101 (*WAC 296-17-754*) applies to corporate officers who have elected optional coverage. A corporate officer as used in these rules is a person who is an officer in the corporation, such as the president, who also serves on the corporation's board of directors and owns stock in the corporation.
- Classification 7100 (*WAC 296-17-75306*) applies to members of a limited liability company who have elected optional coverage.

Clerical office employees are defined as employees whose duties are limited to: Answering telephones; handling correspondence; creating or maintaining financial, employment, personnel, or payroll records; composing informational material on a computer; creating or maintaining computer

software; and technical drafting. Their work must be performed in a clerical office which is restricted to:

- A work area which is physically separated by walls, partitions, or other physical barriers, from all other work areas of the employer, and
- Where only clerical office work as described in this rule is performed.

A clerical office does not include any work area where inventory is located, where products are displayed for sale, or area where the customer brings products for payment. Clerical office employees can perform cashiering and telephone sales work if they do not provide any retail or wholesale customer service that involves handling, showing, demonstrating, or delivering any product sold by the employer. Clerical office employees can make bank deposits, pick up and deliver mail at the post office, or purchase office supplies, if their primary work duties are clerical office duties as defined in this rule.

Sales personnel are defined as employees whose duties are limited to: Soliciting new customers by telephone or in person; servicing existing customer accounts; showing, selling, or explaining products or services; completing correspondence; placing orders; performing public relations duties; and estimating. Although some of sales person's duties may be performed in a clerical office, most of their work is conducted away from the employer's physical business location or in showrooms. We refer to work that takes place away from the employer's premises as "*outside sales*." Sales personnel whose duties include customer service activities such as, but not limited to, the delivery of product, stocking shelves, handling inventory, or otherwise merchandising products sold to retail or wholesale customers are excluded from all standard exception classifications. Sales personnel with duties such as delivery and stocking of shelves are to be reported in the basic classification applicable to the business unless the basic classification assigned to the business requires another treatment.

Messengers are defined as employees whose duties are delivering interoffice mail, making deposits, and similar duties that are exclusively for the administration of the employer's business. Classification 6303 "messengers" does not include delivering mail or packages to the employer's customer or as a service to the public. If a messenger is engaged in delivering mail or packages as a service to the public they are to be assigned to the basic classification of the business or classification 1101 as applicable.

Corporate officers duties in classification 7101 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. To qualify for this classification, a corporate officer must:

- Be a shareholder in the corporation,
- Be elected as a corporate officer and empowered in accordance with the articles of incorporation or bylaws of the corporation,
- Serve on the corporation's board of directors,
- Not have any exposure to any operative hazard of the business, and

- Not directly supervise employees who have any exposure to any operative hazard of the business.
Members of a limited liability company (LLC) duties in classification 7100 must be limited to: Clerical duties; outside sales duties as described above; administrative duties such as hiring staff, attending meetings, negotiating contracts, and performing public relations work. This includes only those members who have duties and authority similar to the exemption criteria of corporate officers in RCW 51.12.020.

Classification 6303 may apply to a corporate officer or member of a limited liability company whose duties are limited to outside sales activities as described in the sales personnel section of this rule. Under no circumstance is classification 4904 to be assigned to any corporate officer or member of a limited liability company. You cannot divide the work hours of an employee between a standard exception classification and a basic classification unless it is permitted by another rule. If an employee works part of their time in a standard exception classification and part of their time in your basic classification, then all exposure (hours) must be reported in the highest rated basic classification applicable to the work being performed.

(3) What are the special exception classifications?

Special exception classifications represent operations found within an employer's business that are allowed to be reported separately when certain conditions are met. Assuming the conditions noted under each exception below have been met, the following classifications may be used even if your basic classification includes the phrases "all operations" or "all employees." These special exceptions are subject to a division of worker hours in connection with all other basic classifications unless specifically prohibited in an individual classification WAC rule.

Security guards - classification 6601 (*WAC 296-17-723*) will apply if the security guard:

- Is an employee of an employer engaged in logging or construction,
- Is for the purpose of guarding the employer's logging or construction sites,
- Is employed at the site only during the hours the employer is not conducting any other operations at the site,
- Has no other duties during their work shift as a security guard.

If all of the above conditions are not met, the security guard is to be reported in the basic classification applicable to the construction or logging operation being conducted.

Janitors - classification 6602 (*WAC 296-17-724*) will apply if:

- The janitorial/cleaning activities being performed are limited to the employer's clerical office,
- The clerical office meets the criteria described earlier in this rule, and
- The employer's office employment is assigned to be reported in classification 4904.

Construction: Superintendent or project manager - classification 4900 (*WAC 296-17-64999*) will apply if the superintendent or project manager:

- Is an employee of a licensed contractor engaged in construction,
- Has no direct control over work crews,
- Performs no construction labor at the construction site or project location.

If all of the conditions are not met, the superintendent or project manager is to be reported in the basic classification applicable to the construction project.

Construction: Estimator - classification 4911 (*WAC 296-17-65802*) will apply if the estimator:

- Is the employee of a licensed contractor engaged in construction, and
- Has no duties other than estimating during their work shift.

If these conditions are not met, the estimator is to be reported in the basic classification applicable to their employer's business or the construction project.

Log truck drivers - classification 5003 (*WAC 296-17-66001*) will apply if the log truck driver has no other duties during their work shift that are subject to the logging classification 5001 (*WAC 296-17-659*).

(4) What are the general exclusion classifications?

General exclusion classifications represent operations that are so exceptional or unusual that they are excluded from the scope of all basic classifications. If you have these operations, we will assign a separate classification to cover them. You must keep accurate records of the work hours your employees work in these classifications. If you do not keep accurate time records for each employee performing work covered by a general exclusion classification, we will assign the work hours in question to the highest rated classification applicable to those hours. The general exclusion classifications are:

- Aircraft operations: All operations of the flying crew.
- Racing operations: All operations of the drivers and pit crews.
- Diving operations: All operations of diving personnel and ship tenders who assist in diving operations.
- New construction or alterations of the business premises.
- Musicians and entertainers.

A division of work time is permitted between a standard exception classification and flight crew operations, racing operations, or diving operations. If you fail to keep original time records that clearly show the time spent in the office or in sales work, we will assign all work hours in question to the highest rated classification applicable to the work hours in question.

Example: Assume a corporate officer performs duties which are described in classification 7101. Occasionally, the officer flies a plane to attend a meeting. You would report the flying exposure (hours) of the corporate officer in classification 6803. The remainder of the corporate officer's time would continue to be reported in classification 7101.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-516 Classification 0403.

0403-00 Sign: Erection, repair, and/or removal, including related painting and maintenance

Applies to contractors engaged in the erection, repair, and/or removal of signs, including related painting and maintenance. Signs include, but are not limited to, commercial business or personal property signs, advertisement billboards, poster panels erected at commercial or residential properties, private properties, buildings or structures, or open spaces. Signs may be made of wood, metal, plastic, glass, or neon tube. Free standing sign erection process begins with digging or drilling holes in which to stand or set poles or posts. The sign is attached to the pole or post prior to standing or is lifted with a boom or crane to be mounted and secured. Other signs are mounted and secured directly to buildings or structures. This classification includes the related electrical hook-up work to install neon and digital signs such as those located at banks and stores including the maintenance, repair, and painting of signs at the customer's location or at the contractor's shop.

This classification excludes the installation or removal of highway, street, or roadway signs that specify roadway information (such as speed limits, road conditions, city and town mile destinations) which are mounted on overpasses or erected alongside the roadway which are to be reported separately in classification 0219; the placement of temporary signs which is to be reported separately in classification 4910; or the manufacturing of signs which is to be reported separately in the applicable classification.

0403-10 Sign painting or lettering outside buildings or structures, N.O.C.

Applies to contractors engaged in sign painting or lettering outside buildings or structures not covered by another classification (N.O.C.), and includes all contractor's shop operations. Generally, this classification involves specialty lettering or painting such as, but not limited to, business logos, addresses, business hours or phone numbers, murals or other artwork.

This classification excludes contractors engaged in the installation or removal of highway, street, or roadway signs that specify roadway information (such as speed limits, road conditions, city and town mile destinations) which are mounted on overpasses or erected alongside the roadway which are to be reported separately in classification 0219; striping parking lots and painting curbs (and numbering on curbs) which is to be reported separately in classification 0219; sign painting or lettering inside of buildings, including inside murals or other artwork, which is to be reported separately in classification 4109; exterior painting of buildings or structures which are to be reported separately in classification 0504; painting or lettering in connection with an automotive body shop which is to be reported separately in classification 3412; and the erection, repair or removal of outdoor signs which is to be reported separately in classification 0403-00.

~~((0403-11 Street and building decoration: Hanging or removing flags or bunting~~

~~Applies to establishments engaged in hanging or removing flags or bunting for conventions, celebrations, events, or similar decorations on the exterior or interior of buildings, structures, or streets. Buntings are strips of decorative cloth which may be used to span a roadway to promote events, as overhead streamers at an auto sales lot, or as a sign hung on a building to advertise grand openings.~~

~~This classification excludes the manufacture of flags or bunting which is to be reported separately in the applicable classification.))~~

AMENDATORY SECTION (Amending WSR 05-23-161, filed 11/22/05, effective 1/1/06)

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 296-17-521 Classification 0508.

0508-00 Radio, television, cellular or water towers, poles and towers, N.O.C.: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of iron, steel, or wood radio, television, cellular or water towers, poles, towers and those towers which are not covered by another classification (N.O.C.). Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the foundation/excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by crane and welding or bolting them into place, and the installation, removal, service and/or repair of antennas, dish units and/or other transmitting/receiving apparatus to the structure. This classification also includes the delivery of material and supplies to the job site when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow the separate reporting of excavation or foundation work irrespective of who performs the work. This classification includes specialty contractors who install, remove, service or repair antennas, dish units and/or other transmitting/receiving apparatus to a structure covered by this classification.

0508-01 Smokestack: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of iron, steel or concrete smokestacks. These structures are part of an industrial complex and facilitate the discharge of combustion vapors, gases, or smoke. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, installation of scaffolding, raising segments into place with a crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and installation of any apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classifica-

tion; the installation of machinery which is to be reported separately in classification 0603; preliminary clearing of land by a contractor who is not also excavating the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation work irrespective of who performs the work.

0508-02 Windmill and silo: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of iron, steel or wood windmills or silos. Windmills use the force of wind passing around the rotor blades to turn turbines and produce electric power. These may be built individually or in groups known as "wind farms." Additional apparatus and storage batteries are housed in separate buildings nearby. Silos are large cylindrical structures used to store grain or fodder (silage). They are filled through the top by means of a conveyor. Within the structure, augers and pumps can move the grain to blend, aerate, or feed it out the chute. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and the installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow the separate reporting of excavation or foundation work irrespective of who performs the work.

0508-03 Oil still or refinery: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of oil stills or refineries. These facilities are basically composed of multi-story storage tanks, chimneys, pipelines, separating apparatus and steam generating systems. They receive unprocessed

petroleum (crude oil) and convert it into usable products such as gasoline, kerosene, wax, grease and chemical feed stocks. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation and other concrete, on-site fabrication and assembly of parts, erecting framework, installation of scaffolding, raising structural members by crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and the installation of apparatus in an oil still or refinery when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery or apparatus by a specialty contractor which is to be reported separately in classification 0603; plant maintenance contract work as described in classification 0603; preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of control or pump houses and other buildings not part of the main processing plant which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation work irrespective of who performs the work (~~and plant maintenance contract work which is to be reported separately in classification 0603~~).

0508-04 Blast furnace and metal burners: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of blast furnaces and metal burners. These are tall, very heavy gauge, cylindrical steel structures in which heated air and combustible fuels are combined to produce the heat necessary to separate the usable material in metal ores from the waste products. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, installation of a brick lining, raising structural members by crane and welding or bolting into place. This classification includes the delivery of material and supplies to the job site and the installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a mate-

rial supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of additional buildings as part of an ore reduction or metal producing facility which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-08 Elevated railway, tram, lift or similar conveyances: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of elevated railways, trams, lifts or similar conveyances. An elevated railway can be a full scale railroad or a smaller scale system such as a recreational monorail. For the purposes of this classification, trams are overhead cable cars, and lifts are similar to the typical ski lift. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting frames and supports (metal or concrete), installation of scaffolding, raising structural members by crane and welding or bolting them into place, and installing and securing tracks, cables or pulley systems. This classification includes the delivery of material and supplies to the job site and the installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; or the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-09 Exterior tanks, N.O.C.: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of all types of exterior tanks not covered by another classification (N.O.C.). These tanks may be part of water storage and distribution systems, chemical or petroleum processing and storage operations, or other industrial applications. This classification includes the erection or construction of tanks that are elevated on structural piers and those that rest on the ground. These tanks may be constructed singly or in groups known as "tank farms" which are common to the petroleum industry. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation con-

tractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, and raising structural members by crane and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of a control building or installation of a modular control building which is to be reported separately in the applicable construction classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-11 Crane or derrick: Installation, construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the installation, construction or erection, dismantling, maintenance or repair of nonmobile cranes and derricks for commerce and industrial use. Cranes and derricks can be very similar in that they are both defined as machines for hoisting and moving heavy objects through the use of stationary or movable booms equipped with cables. An object, sometimes weighing many tons, can be secured to the cables and moved into position along the length of a stationary boom or to another location within the reach of a movable boom. A derrick, however, can also be a permanent framework over an opening, such as an oil-drilling operation, to support boring equipment. The cranes included in this classification are those that are permanently installed at a marine port, cargo handling facility or an industrial facility to move supplies, cargo containers, or heavy objects (vertically or horizontally) that are being assembled and must pass through the length of a building to complete the process. Work contemplated by this classification includes, but is not limited to, the placement of forms and reinforcing steel for a foundation (in the case of some structures described above, the additional reinforcing required to support the crane is usually contemplated in the plan for the building's foundation where the crane is being anchored), on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by hoist and welding or bolting them into place. This classification includes the delivery of material and supplies to the job site and installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the operation of mobile cranes which is to be reported in classification 3506, the installation of machinery which is to be reported separately in

classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; and delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification.

Special note: This classification does not allow separate reporting of excavation or foundation contractors irrespective of who performs the work.

0508-12 Water cooling towers or structures - metal or wood: Construction or erection, dismantling, maintenance or repair

Applies to contractors engaged in the construction or erection, dismantling, maintenance or repair of metal or wood water cooling towers or vertical structures. These structures are usually part of an industrial complex in which water is used as a cooling element in a manufacturing process. The water, which absorbs heat from the machinery being cooled, can be circulated and reused after it has been channeled through a cooling tower to be chilled sufficiently. A common design allows the hot water to tumble down numerous open louvers or steps to lower its temperature. These towers are often composed of prefabricated parts which are delivered to the site and then assembled by bolting or welding together, then the necessary motors, pipes, fans and pumps are installed. Work contemplated by this classification includes, but is not limited to, clearing of land (if done by the excavation contractor), excavating for the foundation, the placement of forms, installation of reinforcing steel, pouring and finishing the foundation, on-site fabrication and assembly of parts, erecting the frame, installation of scaffolding, raising structural members by crane and welding, bolting or otherwise fastening them into place. This classification includes the delivery of material and supplies to the job site and installation of apparatus onto a structure covered by this classification when done by employees of an employer having operations subject to this classification.

This classification excludes the felling of timber which is to be reported separately in the applicable logging classification; the installation of machinery which is to be reported separately in classification 0603; the preliminary clearing of land by a contractor who is not also excavating for the foundation which is to be reported separately in classification 0101; delivery of material to the site by employees of a material supplier or a common carrier which is to be reported separately in the applicable classification; and the construction of other related buildings at the project site which is to be reported separately in the applicable construction classification.

Special notes: This classification does not allow separate reporting of excavation or foundation irrespective of who performs the work. Construction of a water cooling structure that uses a horizontal rather than tower-like design is to be reported separately in classification 0518.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-618 Classification 3905.

3905-00 Restaurants, N.O.C.

Applies to establishments engaged in restaurant operations not covered by another classification (N.O.C.). These establishments are "traditional, family or full service" restaurants that provide sit-down services, or cafeteria or buffet style meals. This classification includes the preparation and service of food and beverages. Establishments in this classification may serve beer and wine; however, they are prohibited from selling spirits or hard liquor. Typical occupations include, but are not limited to, hostesses, waiters, waitresses, cooks, busboys, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in conjunction with the restaurant.

This classification excludes establishments engaged in operating restaurants or lounges that sell spirits or hard liquor which are to be reported separately in classification 3905-07, and catering services that are not part of the restaurant operation which are to be reported separately in classification 3909.

Special note: Traditional, family or full service restaurants are establishments where wait persons bring customers a menu, take orders, and deliver prepared meals to the customer's table or where customers choose from a variety of food items from a buffet or cafeteria style service. Such establishments will generally use nondisposable eating utensils and plates to serve food as opposed to throw away paper plates and plastic eating utensils. Includes establishments where orders are placed at the counter, and the food or drink is delivered to your table. Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a restaurant are to be reported separately in classification 6605.

3905-01 Food, drink, and candy (~~(vending)~~) vendors or concessionaires (~~(at theatres, parks, tracks, and exhibitions)~~)

Applies to (~~(establishments)~~) street vendors and businesses engaged in operating food, drink or candy concessions at places such as, but not limited to, ball parks, race tracks, theaters and exhibitions. This classification is applicable only to concession operations which are operated independent from the facility or event at which the concession service is being provided. These independent vendors selling food items are not employees of the facility or site where the event or exhibition is taking place. Vendors subject to this classification sell a variety of food, snack and beverage items from booths, mobile push carts, mobile stands, carrying boxes, or trays.

This classification excludes food and beverage operations (concession stands) operated in connection with an event or facility by employees of the event sponsor or facility operator which are to be reported separately in the classifica-

tion applicable to the event or exhibition; (~~(street)~~) vendors (~~(or)~~) and route food services, operating in a truck or van moving from place to place throughout the day, which are to be reported separately in classification 1101; vendors of non-food items which are to be reported separately in the applicable classification; and vending machine service companies that replenish food, snack and beverage products which are to be reported separately in classification 0606.

3905-03 Commissaries and restaurants with construction, erection, logging or mine operations

Applies to commissary or restaurant operations conducted *exclusively* in connection with a construction, erection, logging or mining camp operation. This classification is limited to food preparation services provided at a camp site or at a mess hall used to feed employees of the construction, logging, erection, or mining company. The foods prepared and served are not intended for, or offered to, the general public.

Special note: The purpose of this classification is to provide employees engaged in the food preparation activity with a classification representative of the work being performed, even though such activities may be occurring at or adjacent to the construction, logging, erection or mining site as provided for in the general reporting rule covering general inclusions.

3905-04 Eating establishments, N.O.C. such as public lunch counters in stores

Applies to establishments not covered by another classification (N.O.C.) engaged in operating lunch counters and restaurants within a retail store location. Use of this classification is limited to employees of an employer who also operates the retail store where the food service is located.

3905-06 Taverns

Applies to establishments engaged in the operation of a tavern. A tavern is primarily engaged in the sale of beer, wine, and alcoholic beverages for on-premises consumption, and may also provide a variety of foods ranging from peanuts and pretzels to hot food dishes. Typical occupations include, but are not limited to, bartenders, waiters, waitresses, cooks, busboys, dishwashers, and managerial staff. Beer may also be sold by the keg with the rental of necessary taps and pumps. This classification includes the operation of a "beer garden" at special events such as, but not limited to, fairs or race meets, and the operation of a card room in connection with the tavern.

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a tavern are to be reported separately in classification 6605.

3905-07 Restaurants serving spirits or hard liquor

Applies to establishments engaged in the operation of a restaurant having a license to sell spirits or hard liquor, beer and wine in connection with their food preparation and service. This classification includes the preparation and service of food and beverages at sit down restaurants and lounges. Such establishments have extensive cooking facilities and equipment to prepare full meals. Typical occupations covered by this classification include, but are not limited to, bar-

tenders, hostesses, waiters, waitresses, valet parking attendants, cooks, busboys, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in connection with the restaurant.

This classification excludes establishments engaged as a restaurant without a license to sell spirits or hard liquor which are to be reported separately in classification 3905-00; taverns which are to be reported separately in classification 3905-06; catering services which are not part of a restaurant operation which are to be reported separately in classification 3909; musicians who are to be reported separately in classification 6605; and entertainers such as dancers who are to be reported separately in classification 6620.

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a restaurant are to be reported separately in classification 6605.

3905-08 Pizza parlors

Applies to establishments engaged in operating a pizza parlor or restaurant. Establishments subject to this classification specialize in the preparation and sales of pizza (but may also provide other foods) and beverages such as wine, beer, alcoholic beverages, or soft drinks for on-premises consumption. Typical occupations include, but are not limited to, hostesses, waiters, waitresses, cooks, busboys, dishwasher, cashiers, and managerial staff. This classification also includes establishments that deliver pizza to customers, or where customers can pick up already prepared pizza at the shop, but where no customer seating is provided.

This classification excludes U-bake pizza operations which are to be reported separately in classification 6403.

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a pizza parlor are to be reported separately in classification 6605.

3905-09 Fast food drive-ins, N.O.C.

Applies to establishments engaged in the operation of fast food drive-ins or restaurants. These establishments serve easily prepared foods quickly and nonalcoholic beverages which can be eaten on the premises or picked up by customers at a counter or a drive through window. Fast food establishments offer a variety of menu items such as, but not limited to, hamburgers, french fries, tacos, sandwiches, fried chicken, hot dogs, fish and chips. Such establishments will generally use disposable eating utensils and throw away plates.

This classification excludes street vendors and/or route food services which are to be reported separately in classification 1101 and full service restaurants which are to be reported separately in classification 3905-00.

3905-11 Soft drink lounges

Applies to establishments engaged in operating soft drink lounges. These types of establishments may provide entertainment such as dancing for an adult audience or a place where youths under the age of 21 can dance or listen to music. These lounges do not sell alcoholic beverages. This classification includes the preparation and service of light snacks and hors d'oeuvres, such as chips, peanuts, pretzels or finger sandwiches.

This classification excludes entertainers such as exotic dancers who are to be reported separately in classification 6620 and musicians who are to be reported separately in classification 6605.

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a lounge are to be reported separately in classification 6605 or 6620 as applicable.

3905-12 Ice cream parlors

Applies to establishments engaged in the operation of an ice cream parlor or frozen yogurt shop. These specialty shops offer a limited menu, usually confined to ice cream and frozen yogurt offered in individual servings, various size containers, and specialty items. Special occasion ice cream cakes may be ordered and picked up at a later date by the customer. These establishments usually provide customer seating.

This classification excludes (~~street~~) vendors and/or route food services, operating in a truck or van moving from place to place throughout the day, which are to be reported separately in classification 1101, and vendors selling ice cream from a booth, push cart, mobile stand or tray which are to be reported separately in classification 3905-01.

3905-13 Candy, nut, and popcorn retail stores with on-premises manufacturing

Applies to establishments engaged in operating candy, nut or popcorn stores where some or all the products sold are manufactured on the premises. Establishments in this classification may sell a variety of candies, nuts, or popcorn, or may specialize in one or two products. They may also sell their products in gift wrapped packages.

This classification excludes establishments engaged in selling candy, nuts, or popcorn, *that do not manufacture* any product on the premises, which are to be reported separately in classification 6406, and establishments primarily engaged in the wholesale manufacturing of candy which is to be reported separately in classification 3906.

3905-14 Espresso/coffee stands and carts

Applies to vendors operating espresso or coffee stands or carts. Products sold include, but are not limited to, coffee, espresso, lattes, Italian sodas, soft drinks, pastries and pre-packaged items. These types of vendors *do not prepare food*. This classification is distinguishable from retail coffee, tea or spice stores in that coffee stands or carts in classification 3905 sell only ready-to-serve products; they do not sell packaged coffee, tea or spice items.

This classification excludes street vendors and/or route food services which are to be reported separately in classification 1101.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-622 Classification 4103.

4103-01 Newspaper publishing

Applies to establishments engaged in publishing daily or periodic newspapers. This classification includes the printing, distribution and general maintenance activities of the newspaper. The printing operation usually consists of one of three processes: Offset lithography, letterpress, or flexography. After the papers are printed, they are cut, folded and stacked either manually or by computer-operated machinery. Route managers then distribute the papers to door-to-door carriers or independent route delivery drivers. Typical occupations covered by this classification include bindery workers, press operators, freight handlers, machine feeders, production helpers, maintenance workers and drivers.

This classification excludes photo composition or prepress work such as photographic or computerized typesetting, layout, paste up, editing, proofreading, camera work and automated platemaking which is to be reported separately in classification 4904; outside reporters, photographers, sales personnel, advertising staff and circulation solicitors who are to be reported separately in classification 6303; and establishments engaged in printing operations for newspapers published by other firms which are to be reported separately in classification 4101.

Special note: ((Newspapers without any printing operations are governed by the general reporting rule covering businesses described by a standard exception classification.)) Employees of an employer subject to this classification who have both photographic composition/prepress work duties and duties which are subject to this classification ((~~4101~~)) (~~4103~~) are to be reported separately in classification (~~4101~~) 4103 without a division of work hours.

Newspapers without any printing operations are governed by the general reporting rule covering businesses described by a standard exception classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-634 Classification 4305.

4305-06 Garbage works or landfill: Reduction or incineration

Applies to establishments engaged in the disposal of refuse by processing or destruction, or in the operation of incinerators, landfills or other sites for disposal of such materials. Sanitary landfilling involves spreading typical household waste, in thin layers, compacting them to the smallest practical volume, and covering them with soil each working day in a manner that minimizes environmental impact. Sanitary landfills must have permits issued by a state regulatory program. Also included in this classification are solid waste landfills which are designed to accept construction debris

such as plasterboard, cement, dirt, wood, and brush. Compactors may be used to compact the trash before it is discarded in the landfill. Incinerator operations reduce the volume of refuse with the remaining material and ashes being discarded in a landfill. Front end loaders are frequently used to feed the refuse into the incinerator. This classification includes cashiers collecting fees from customers, incidental recycling or sorting operations conducted in connection with a landfill or garbage works operation by employees of an employer subject to this classification, and establishments that only sort refuse. (Refuse sorting centers are distinguished from "buy back centers" in that "buy back centers" collect recyclable materials which they sell to others while refuse sorting centers collect and dispose of materials.)

This classification excludes establishments engaged in solid waste, refuse or ashes collecting, including curbside recycle services which are to be reported separately in classification 4305-18; cities or towns engaged in solid waste, refuse or ashes collecting, including curbside recycle services which are to be reported separately in classification 0803; counties and taxing districts engaged in operating garbage works, landfill, reduction or incineration operations which are to be reported separately in classification 1501; establishments engaged in hazardous waste and toxic material processing or handling, including processing of medical or septic tank waste, drug lab or hazardous spill cleanup (excluding oil spill cleanup on land), and reprocessing or handling of low-level radioactive materials, which are to be reported separately in classification 4305-20; establishments engaged in tire dumps or collection centers which are to be reported separately in classification 4305-21; and buy back (recycle) center operations that include the collecting, buying from customers, sorting and the baling and sales of materials which are to be reported separately in classification 2102.

4305-18 Solid waste, refuse or ashes collecting

Applies to establishments engaged in collecting and removing waste from private homes, commercial establishments, industrial facilities, and other sites. Refuse may be picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated routes to collect curbside garbage or transport metal dumpsters for commercial businesses. This classification also includes the curbside collection of recyclable material when performed by employees of an employer subject to this classification. Garbage collection companies have contracts to dump refuse at landfills or local transfer stations where refuse is compacted and later transferred to a landfill. Independent owners may also contract to run the services for a county or city. This classification also includes establishments engaged in mobile paper shredding services. A truck, similar to a small moving van, is outfitted with a paper shredder. Empty bins or cans are left at establishments such as banks and law offices which need to have documents shredded, the filled containers are picked up either on a regular basis or on call, and the paper shredded on-site. The shredded paper is delivered to recyclers or other businesses who use shredded paper.

This classification excludes establishments engaged in garbage works, landfill, reduction or incineration operations which are to be reported separately in classification 4305-06; counties or taxing districts engaged in garbage works, land-

fill, reduction or incineration operations which are to be reported separately in classification 1501; cities or towns engaged in solid waste, refuse or ashes collecting, including curbside recycling services which are to be reported separately in classification 0803; establishments engaged in hazardous waste and toxic material processing or handling, including processing of medical or septic tank waste, drug lab or hazardous spill cleanup (excluding oil spill cleanup on land), and reprocessing or handling of low-level radioactive materials, which are to be reported separately in classification 4305-20; establishments engaged in tire dumps or collection centers which are to be reported separately in classification 4305-21; and recycle ("buy-back") center operations that include the collecting, buying from customers, sorting, and the baling of materials which are to be reported separately in classification 2102.

4305-20 Hazardous waste and toxic material processing or handling, N.O.C.

Applies to establishments engaged in the *processing or handling* of hazardous/toxic materials not covered by another classification (N.O.C.), including the *processing* of medical or septic tank waste, drug lab or hazardous spill *cleanup* (excluding oil spill cleanup on land), and *reprocessing or handling* of low-level radioactive materials. This classification is distinguished from classification 3701-27, in that 4305-20 applies to the *processing or cleanup* of hazardous/toxic materials while 3701-27 includes the *identifying and repackaging for disposal* of such materials as drugs, pesticides, chemicals, and toners. Hazardous waste can be defined as any material that contains hazardous elements in amounts high enough to pose a significant threat to human health and the environment and therefore should be isolated. Hazardous characteristics include the ability to bioconcentrate, ignite, corrode, react with water or other materials, or show toxicity such as toxic metals including lead, cadmium and mercury; organic solvents such as benzene and trichloroethylene; and toxic materials such as asbestos.

This classification excludes establishments engaged in garbage works, landfill, reduction or incineration operations which are to be reported separately in classification 4305-06; establishments engaged in solid waste and refuse or ashes collecting, including curbside recycle services and mobile paper shredding operations, which are to be reported separately in classification 4305-18; establishments engaged in tire dumps or collection centers which are to be reported separately in classification 4305-21; soil remediation, including oil spill cleanup on land, which is to be reported separately in classification 0101; asbestos abatement, all operations, which is to be reported separately in classification 0512; processing of waste oils, solvents, antifreeze, paints, and other hazardous materials, which is to be reported separately in classification 3407; and hazardous/toxic material repackaging for disposal, including drugs, pesticides, chemicals, and toners, which is to be reported separately in classification 3701.

4305-21 Tire dumps or collection centers

Applies to establishments engaged in operating tire dumps or collection centers. The primary source of used vehicle tires are tire retailers who remove the tires from their customers' vehicles when replacement tires are sold. Occa-

sionally community or charitable groups will hold a fund raising event where the public can drop off their used tires for a fee. Operations include, but are not limited to, picking up and hauling the used tires to a location where the tires can be stored or manually sorted into those with enough tread to be used on the highways; those casings suitable for retreading (either of which have a resale value); and those with no resale value which are hauled to an appropriate disposal site. This classification includes drivers as well as workers involved in the sorting operations.

4305-22 Debris removal: Construction sites or nonconstruction debris N.O.C.

Applies to establishments engaged in the collecting and removing of construction site debris left by construction crews. The debris may consist of scrap lumber, metal, wire, drywall, carpet and any other materials used in the construction of residential or commercial projects. This classification also includes the collecting and removal of nonconstruction debris. This includes but is not limited to, basement debris, household junk, garden waste, furniture and appliances. The debris is loaded into dump trucks, utility trucks, dump trailers, or roll off dumpsters then transferred to a landfill or local transfer station.

This classification excludes establishments engaged in residential or commercial construction that remove and haul their own debris which is to be reported in the construction classification applicable to the work being performed; establishments engaged in garbage works, landfill reduction or incineration operations which are to be reported separately in classification 4305-06; establishments engaged in solid waste and refuse or ashes collecting, including curbside recycle services and mobile paper shredding operations which are to be reported separately in classification 4305-18; establishments engaged in hazardous waste and toxic material processing or handling, including processing of medical or septic tank waste, drug lab or hazardous spill cleanup (excluding oil spill cleanup on land), and reprocessing or handling of low-level radioactive materials which are to be reported separately in classification 4305-20; establishments engaged in tire dumps or collection centers which are to be reported separately in classification 4305-21; and establishments engaged in pre-occupancy cleanup of newly constructed residential or commercial structures which includes washing windows, vacuuming carpets, dusting woodwork, doors, cabinets, washing floors and fixtures which are to be reported separately in classification 6602-03.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-649 Classification 4808.

4808-01 Farms: Diversified field crops

Applies to establishments engaged in growing a variety of grain, vegetable, or grass crops during a single season. Work contemplated by this classification includes, but is not limited to, preparing the soil for new crops, planting, fertilizing, weeding, harvesting, and maintaining or installing sprinkler or irrigation systems. Any subsequent grading, sorting, packing and shipping of farm products grown subject to this

classification is included within the scope of this classification. This classification includes roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately provided all the conditions of the general reporting rules covering the operation of a secondary business are met. Typical crops include the following:

Alfalfa	Garlic	Rye
Barley	Grain	Sugar Beets
Beans, Dry	Grass Seed	Timothy
Clover	Hay	Wheat
Corn	Peas, Dry	

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; establishments engaged exclusively in the sale of fresh vegetables who are not involved in the cultivation of plants which are to be reported separately in classification 6403; 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: This classification differs from classification 4802 "vegetable farm operations" in that vegetable crops grown subject to classification 4808 generally have a long growing season and are harvested upon reaching maturity at the end of the season. Vegetable crops grown in classification 4802 are generally planted so that harvesting will occur continuously over the season and in smaller quantities. See classification 4802-12 for additional information. 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.

4808-02 Farms: Alfalfa, clover and grass seed

Applies to establishments engaged exclusively in raising alfalfa, clover, and grass crops for seed. Work contemplated by this classification includes, but is not limited to, preparing soil for crops, planting, fertilizing, machine harvesting, maintaining or installing sprinkler or irrigation systems, and drying of seed. Any subsequent grading, sorting, packing and shipping of seeds is included within the scope of this classification. Also included is the incidental sale of farm products from roadside stands operated at or near the farm and farm store operations where a small stock of products not pro-

duced by the operation subject to this classification may also be offered for sale.

This classification excludes establishments engaged in grading, sorting, and packaging seeds; or selling baled alfalfa or clover who are not engaged in growing operations which are to be reported separately in classification 2101; establishments engaged exclusively in grain or seed storage who are not engaged in growing operations which are to be reported separately in classification 2007; 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.

4808-04 Farms: Hay

Applies to establishments engaged exclusively in raising hay or straw grass for sale, and includes the raising of such crops for seed. Work contemplated by this classification includes, but is not limited to, preparing soil for crops, planting, fertilizing, machine harvesting, maintaining or installing sprinkler or irrigation systems, and drying of seed. Any subsequent grading, sorting, packing and shipping of seeds is included within the scope of this classification. Also included is the incidental sale of farm products from roadside stands operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale.

This classification excludes establishments engaged in grading, sorting, and packaging seeds, or selling baled hay who are not engaged in growing operations which are to be reported separately in classification 2101 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.

4808-06 Farms: Cereal grain

Applies to establishments engaged in growing cereal grain crops. Work contemplated by this classification

includes, but is not limited to, preparing the soil for new crops, planting, fertilizing, weeding, harvesting, and maintaining or installing sprinkler or irrigation systems. Any subsequent grading, sorting, packing and shipping of farm products grown subject to this classification is included within the scope of this classification. Also included is the incidental sale of farm products from roadside stands or operated at or near the farm and farm store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Typical cereal grain crops include the following:

Barley	Rye
Corn	Wheat

This classification excludes 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: See classification 4802-12 for additional information relative to corn. 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.

4808-07 Potato sorting and storage

Applies to establishments engaged in storing potatoes in storage warehouses or cellars. Work contemplated by this classification is limited to sorting the good potatoes from damaged ones or from debris such as vines or rocks, piling them into the storage area by size, and storing them until they are taken to processing or packing plants. Sorting may be done either in the field or at a storage warehouse. This classification also includes potato digging and piling when performed by employees of an employer engaged in storing potatoes but who is not engaged in growing potatoes.

This classification excludes fresh vegetable packing operations which are to be reported separately in classification 2104; cannery or freezer operations which are to be reported separately in classification 3902; potato chip manufacturing which is to be reported separately in classification 3906; establishments engaged exclusively in the sale of fresh vegetables who are not involved in the cultivation of plants which are to be reported separately in classification 6403; 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 farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.

4808-08 Custom hay baling

Applies exclusively to a specialist farm labor contractor engaged in mowing, turning, and baling hay owned by others. This classification also includes the incidental loading of hay onto trucks and stacking of hay in a barn or warehouse when performed by employees of a specialist farm labor contractor engaged in mowing, turning, and baling hay for others.

Special note: The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.

~~**(4808-10 Farms: Shellfish - mechanical harvesting**~~

~~Applies to establishments engaged in the propagation of shellfish for sale and includes the subsequent harvest of shellfish by means of mechanical dredging operations. Work contemplated by this classification includes spawning of shellfish, seeding in controlled tanks, placement of shellfish into deep water growing beds, harvesting, and processing. Harvesting, processing, and packing of shellfish by a farm labor contractor is included in this classification provided that the shellfish being harvested were grown by an establishment subject to this classification. This classification includes the sale of shellfish at roadside stands operated at or near the business location and store operations where a small stock of products not produced by the operation subject to this classification may also be offered for sale. Businesses operating multiple retail locations may qualify to have those activities reported separately if all the conditions of the general reporting rule covering the operation of a secondary business have been met.~~

~~This classification excludes establishments engaged in the harvesting, processing or packaging of shellfish 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 shellfish grower 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 distinction between establishments assigned to classification 4808 and those which are to be reported separately in classification 4805 is in the harvesting process. Establishments subject to classification 4805 are engaged in hand harvesting activities which includes the use of hand held tools while those assigned to classification 4808 are engaged in mechanical harvesting activities by way of dredging operations. 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-))~~

4808-11 Custom farm services by contractor

Applies exclusively to contractors engaged in supplying and operating agricultural machinery and equipment at their

customer's locations. Work contemplated by this classification involves preparing fields for crops, planting and cultivating crops, fertilizing, and harvesting operations using machinery and equipment such as, but not limited to, tractors, plows, fertilizer spreaders, combines, reapers, potato diggers, boom loaders and pickers. Contractors subject to this classification are generally not responsible for the overall care of the crops, but are merely hired to provide specified services, which involve the use of machinery and employee equipment operators. This classification also includes seasonal agricultural produce hauling from the field to a processing or storage plant when performed by employees of an employer not engaged in the related farming operations associated with the crop being hauled.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-64904 Classification 4812.

4812-00 Farms: Fin fish and shell fish hatcheries

Applies to establishments engaged in hatchery operations for the raising of fin or shellfish, or their eggs. Work contemplated by this classification includes, but is not limited to, spawning of larvae, growing and testing algae (food for shellfish in larvae stage), seeding of shells in tanks, loading of seeded shells for shipment or transportation to natural waters, spawning fin fish, harvesting, and management of water flow temperature and exchange rate, and laboratory work when performed by employees of an employer subject to this classification. The term "harvest" includes the sale of seeded shells, larvae, fish eggs, and whole fish.

This classification excludes the placement of seeded shells or larvae into natural waters, harvesting of mature shellfish or the related processing and packaging of shellfish which are to be reported separately in classification 3304(;) or 4805(;-or-4808)) as applicable, and contractors hired by a farm operator to install, repair or build any hatchery equipment or structures who are to be reported separately in the classification applicable to the work being performed.

Special note: See classifications 4805 ((and 4808)) for related information. The farm labor contractor provision is not applicable to this classification.

NEW SECTION

WAC 296-17-65802 Classification 4911.

4911-00 Construction estimators

Applies to employees of construction or erection contractors who work as cost and materials estimators preparing bids for contracts away from their employer's business offices. Employees covered by this rule may have exposure to the hazards of job sites, customer's premises, and/or undeveloped land. This classification is restricted in that employees reported in it cannot have any other duties other than construction estimating during their work shift or work day. Any employee working as an estimator and having any construction-related duties during the same work shift or day is to be reported separately in the applicable construction or erection classification for that entire work shift.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-66003 Classification 5005.

5005-00 Logging and/or tree thinning - mechanized operations

(to be assigned only by classification services staff)

Applies to establishments engaged in mechanized logging or tree thinning operations. For purposes of this classification, mechanized logging is defined as the entire process of felling, removal (skidding), yarding, processing, delimiting, bucking and loading of trees/logs by machine. This classification can be used by a logging contractor only if the entire side is being logged using methods and equipment described in this rule. If any portion of the side is being logged by conventional methods the entire operation must be reported in classification 5001 - Logging, N.O.C. or 0101 Logging Machine Operators. For example, an employer that subcontracts to fell trees with a feller/buncher or processor but is not involved in the removal (skidding) of the trees, the processing (delimiting and bucking) of the trees and the loading of trees is excluded from classification 5005 and is to be reported in classification 5001 - Logging, N.O.C. or 0101 Logging Machine Operators. Any employer whose operation includes any manual felling, removal, processing, or loading of trees is excluded from classification 5005 and is to be reported in classification 5001 - Logging, N.O.C. Work contemplated by this classification includes the falling of trees with a machine such as a feller buncher or processor; skidding logs to the landing with use of a grapple skidder or forwarder; delimiting logs with a mechanized delimitter such as a stroke delimitter, processor, CTR or harvester; and loading logs onto log trucks with a mechanical loader or shovel. Equipment used by employers subject to this classification will consist of the following:

Feller/buncher - used to fell trees and place felled trees into stacks (bunches) for removal to the log landing for further processing. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation.

Processor - used to fell trees, delimit them, buck tree to desired log length and stack the bunches for removal to the landing where they will be segregated by general grade and loaded onto log trucks. A processor is sometimes used at the landing to delimit trees and buck them to log length, especially when the trees are felled by a feller/buncher. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation.

Grapple skidder - is used to remove (ground skid) stacks (bunches) of felled trees from the woods to the landing. The industry refers to both the skidder and the bulldozers as a tractor. The two are distinguished from one another in that the skidder is a tire-driven tractor and the bulldozer is a track-driven tractor. A bulldozer equipped with a grapple is an acceptable piece of equipment to be used in the removal of trees. The operator of either the grapple skidder or bulldozer equipped with grapple does not leave the cab of the machine in the performance of duties in the logging operation.

Forwarder - is used to remove logs as cut by a processor from the woods to an awaiting log truck or to be stacked in

piles for a future pick up by a log truck. This is a small specialized tractor equipped with a self-loader and a log bunk. The operator of this machine does not leave the machine in the performance of duties in the logging operation.

Harvester - is used at the landing of the logging side to delimb trees and buck trees to desired log length. This machine can also be used to load logs onto log trucks. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation.

Loader - is used at the landing to load logs onto log trucks. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation.

This classification excludes log hauling which is to be reported separately in classification 5003, logging road construction which is to be reported separately in classification 6902, logging machine operators which are to be reported separately in classification 0101, and logging operations which are to be reported separately in classification 5001.

Special notes: If any portion of the logging contract is performed manually or by hand, the establishment does not qualify for this classification. If any portion of the logging contract is subcontracted out to another business and is performed manually or by hand, then none of the businesses involved in the logging contract will qualify for this classification and are to be reported separately in classification 5001 or 0101.

All equipment used by employers subject to this classification must meet WISHA guidelines for Roll Over Protection Standards (ROPS) and Falling Object Protection Standards (FOPS).

See classification 5206 (WAC 296-17-675) for permanent shop/yard operations.

AMENDATORY SECTION (Amending WSR 05-12-031, filed 5/24/05, effective 7/1/05)

WAC 296-17-701 Classification 6306.

**6306-00 Stores: Furniture - wholesale or retail
Stores: Billiard or pool table - wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique household furniture. This classification also includes the sale of related items such as, but not limited to, lamps, bedding, pillows, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with a furniture store operation. This classification includes the delivery and the incidental repair of merchandise sold. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and is readily available for sale and delivery to the customer. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, a furniture store could bid on a job to carpet all units of an apartment complex. If the carpet is ordered from the factory as

opposed to carpet carried at the store and in the stores inventory, then the installation is to be reported separately in classification 0502. This classification also applies to stores that sell billiard or pool tables.

Special note: Care should be exercised when considering this classification for antique or used furniture stores since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-01 Stores: Furniture - rental

Applies to establishments engaged in the rental of new, used, or antique household furniture. This classification also includes the sales of related items such as, but not limited to, lamps, bedding, pillows, framed pictures, art pieces and sculptures when sold in connection with a furniture rental store operation. This classification includes the delivery and the incidental repair of merchandise rented. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. This classification also applies to establishments that provide rent-to-own purchasing options, and to establishments engaged in the sale or rental of hospital beds, motorized wheelchairs and similar patient appliances.

Special note: Care should be exercised when considering this classification for an antique or used furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-02 Stores: Appliance - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of gas, electric, or propane household appliances. Household appliances include, but are not limited to, refrigerators, freezers, stoves, range tops, trash compactors, washing machines, clothes dryers, television consoles, big screen televisions, and television antennas or satellite dish receiving

units. Appliance stores will routinely carry smaller appliances which are generally referred to as counter top units which include, but are not limited to, mixers, blenders, microwave ovens, toasters and espresso machines and are included in this classification when sold in connection with the appliance store operation. This classification covers the sale of primarily new appliances although establishments subject to this classification accept trade-ins and sell some used appliances. Also included is the incidental repair of appliances sold by the appliance store, parts departments employees, and the delivery of products sold. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an appliance store could bid on a job to supply appliances for all units of an apartment complex. If the appliances are ordered from the factory as opposed to items carried at the store and in the stores inventory then the installation is to be reported separately in classification 0607. Establishments engaged in the sale of commercial appliances may be assigned to this classification provided such establishments operate a bonafide store operation. Generally, however, commercial appliances such as those used to equip bakeries and restaurants are factory ordered items which are made to a customer's specifications from a manufacturer's representative.

Special note: Care should be taken when considering this classification for an antique or used appliance store since such establishments are primarily engaged in reconditioning appliances (service and repair) for resale and are to be reported separately in classification 0607.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-03 Stores: Piano or organ - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of new pianos and organs. This classification includes all operations associated with the store including service, repair, and delivery. It is common for stores subject to this classification to carry other musical instruments such as, but not limited to, guitars, drums and wind instruments as well as provide instructions on the use of instruments.

This classification excludes establishments engaged exclusively in piano tuning which are to be reported separately in classification 4107; stores that sell musical instruments other than pianos or organs which are to be reported separately in classification 6406; and establishments engaged in the reconditioning of organs and pianos accompanied by the related sales of reconditioned pianos and organs which are to be reported separately in classification 2906.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6306-06 Stores: Office furniture - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique office furniture. This classification also includes the sales of related items such as, but

not limited to, lamps, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with an office furniture store operation. This classification includes the delivery of furniture and related items, and the incidental repair of office furniture items sold by the office furniture store such as upholstery repair and cleaning. The installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and readily available for sale and delivery to the customer. The contract installation of any merchandise that must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an office furniture store could bid on a job to supply modular desk units for a large office complex. If the desk units are ordered from the factory as opposed to units carried at the store and in the stores inventory, then the installation is to be reported separately in classification 2002.

Special note: Care should be exercised when considering this classification for an antique or used office furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing or upholstery work.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-712 Classification 6408.

6408-03 Dealers: Farm machinery/implement

Applies to establishments engaged in the sale, lease, and/or rental, of new or used farm machinery and implements. This classification also applies to the service, repair and/or demonstration of those items by the dealer either on their premises or at the customer's site. For purposes of this classification the term farm machinery refers to engine-powered machinery such as, but not limited to, tractors, combines, and swathers, riding mowers, sprayers, pumps, and generators. Implements include, but are not limited to, plows, discs, balers, or rakes which are attached to and/or powered by farm machinery. The variety of merchandise varies with the needs of the geographical area and may be displayed in inside showrooms and/or outside yards. In addition to parts for the machinery or implements, establishments in this classification may carry some automobile parts, hardware items, and supplies such as oil, filters, and belts. This classification includes lot sales and lot personnel, service managers and employees, parts department employees who have exposure to the service/repair shop or duties related to the sale of farm machinery or implements, towing service for in-shop repairs, delivery of merchandise to the customer, and

regional sales and/or service representatives who provide factory service or training to local dealers and other customers. Parts department employees who are not exposed to any hazards of the service/repair shop or have no duties related to the sale of farm machinery or implements may be reported separately in classification 6309.

This classification excludes establishments that repair and/or service farm type tractors, *but who are not involved in the sale of them*, which are to be reported separately in classification 6409; store operations of dairy equipment and supply dealers which are to be reported separately in classification 6407; the installation, service, or repair of dairy machinery or equipment which is to be reported separately in classification 0603; all field installation, service, or repair work of wind machine dealers which is to be reported separately in classification 0603; and the manufacture or structural repair of heavy machinery or equipment which is to be reported separately in classification ((5409)) 3402.

Special note: Care needs to be taken when considering the assignment of classification 6309 for the sale of parts. Most businesses assigned to classification 6408-03 have an inventory of parts or accessories which they use in the service or repair of farm machinery or implements, or maintain as a convenience to their customers. *Only* those businesses that maintain a complete line of replacement parts that is physically separated from the service/repair shop should be considered for classification 6309.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-713 Classification 6409.

6409-00 Dealers: Machinery/equipment, N.O.C.;

Service/repair garages: Machinery/equipment, N.O.C.

Applies to establishments engaged in the sale, lease, rental, service, and/or repair of new or used machinery and equipment not covered by another classification (N.O.C.). For purposes of this classification the terms machinery or equipment includes, but are not limited to, semi trucks, diesel tractors, buses, construction equipment, concrete barriers and other flagging equipment used in construction projects, logging equipment, transportation equipment, freight hauling equipment, well drilling equipment, power generators, and industrial or manufacturing machinery. Operations of dealers include, but are not limited to, the sale, lease, rental, demonstration, service, or repair of their equipment, either on their premises or at the customer's site, and delivery to customer. The variety of merchandise carried by a machinery and equipment dealer varies with the needs of the geographical area and may be displayed in inside showrooms and/or outside yards. Operations of service centers include diagnostic services, all phases of mechanical service such as, but not limited to, tuning, overhauling and/or rebuilding engines, motors, or transmissions, resurfacing heads, repairing carburetors or fuel injection systems and grinding valves or brakes on equipment or machinery owned by others. In addition to parts for the machinery and equipment, establishments in this classification may carry some automobile parts, hardware items, and supplies such as oil, filters, and belts. This classification includes lot sales and lot personnel, service managers

and employees, parts department employees who have exposure to the service/repair shop or duties related to the sale of machinery/equipment, towing service for in-shop repairs, and regional sales and/or service representatives who provide factory service or training to local dealers and other customers. Parts department employees who are not exposed to any hazards of the service/repair shop or have no duties related to the sale of machinery/equipment may be reported separately in classification 6309. This classification also includes the rental and installation of temporary fences.

This classification excludes farm machinery and equipment dealers who are to be reported separately in classification 6408; store operations of dairy equipment and supply dealers which is to be reported separately in classification 6407; the installation of industrial plant equipment which is to be reported separately in classification 0603; the installation, service, or repair of dairy machinery or equipment which is to be reported separately in classification 0603; all field installation, service, or repair work of wind machine dealers which is to be reported separately in classification 0603; and the manufacture or structural repair of heavy machinery or equipment which is to be reported separately in classification ((5409)) 3402.

Special note: Care needs to be taken when considering the assignment of classification 6309 for the sale of parts. Most businesses assigned to classification 6409-00 have an inventory of parts or accessories which they use in the service or repair of machinery or equipment, or maintain as a convenience to their customers. *Only* those businesses that maintain a complete line of replacement parts that is physically separated from the service/repair shop should be considered for classification 6309.

AMENDATORY SECTION (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

WAC 296-17-72202 Classification 6511.

6511-00 Chore services/home care assistants

Applies to establishments engaged in providing chore services/home care assistants to private individuals. Chore services performed by the chore workers/home care assistants include, but are not limited to, general household chores, meal planning and preparation, shopping and errands either with or without the client, personal care such as bathing, body care, dressing, and help with ambulating, as well as companionship. Frequently the recipients of service are funded by DSHS or some other community service agency; however, the services are also available to those who pay privately. This classification also applies to supported living, tenant support, and intensive tenant support services.

This classification excludes individuals working under a welfare special works training program who are to be reported separately in classification 6505; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; and skilled or semiskilled nursing care which is to be reported separately in classification 6110. This classification also excludes home care providers covered under the home care quality authority who are to be reported separately under classification 6511-01.

~~((6511-01 Home care services/home care quality authority (HCQA))~~

~~Applies to persons who are employed by ill, disabled, or vulnerable individuals to provide home care services that enable those individuals to remain in their own homes. Services provided may include, but not be limited to: Personal care such as assistance with dressing, feeding, personal hygiene to facilitate self-care; household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; and/or delegated tasks of nursing under RCW 18.79.260 (3)(c).~~

~~**Special note:** Premiums are paid by the home care quality authority (HCQA) on behalf of the persons who provide the home care services.)~~

NEW SECTION**WAC 296-17-72203 Classification 6512.****6512-00 Home care services/home care quality authority (HCQA)**

Applies to persons who are employed by ill, disabled, or vulnerable individuals to provide home care services that enable those individuals to remain in their own homes. Services provided may include, but not be limited to: Personal care such as assistance with dressing, feeding, personal hygiene to facilitate self-care; household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; and/or delegated tasks of nursing under RCW 18.79.260 (3)(e).

Special note: Premiums are paid by the home care quality authority (HCQA) on behalf of the persons who provide the home care services.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-724 Classification 6602.**6602-02 Contract window washing services**

Applies to establishments engaged in contract window washing services not done in connection with a janitorial service. These establishments specialize in cleaning both interior and exterior windows in residential and commercial, single and multistory buildings.

This classification excludes establishments engaged in residential cleaning which are to be reported separately in classification 6602-04 and establishments engaged in both commercial and residential cleaning which are to be reported separately in classification 6602-03.

6602-03 Janitorial cleaning services, N.O.C.

Applies to establishments engaged in providing general interior cleaning services for commercial businesses or for combined commercial and residential customers. General cleaning services include, but are not limited to, washing, waxing, and polishing floors, vacuuming and shampooing carpets, dusting and washing walls, dusting or cleaning mirrors, cabinets, moldings, lights, hardware, sinks, tubs, commodes, and appliances, and replacing light globes, paper or linen towels. This classification includes window washing when performed by the janitorial service employees in con-

junction with a general house cleaning contract, it also includes the cleaning of swimming pools, spas and hot tubs. Fire restoration, which includes cleaning smoke or water damaged buildings, drying and/or cleaning carpets and upholstered furniture, washing and polishing furniture, washing walls, washing and waxing floors, cleaning personal contents of the home or business such as linens, dishes, drapes, and other general cleaning tasks, are included in this classification.

This classification excludes establishments engaged exclusively in contract window washing services which are to be reported separately in classification 6602-02, and establishments engaged in residential cleaning which are to be reported separately in classification 6602-04.

Special note: Care should be exercised with companies specializing in fire restoration or water damage related work. These companies may be general contractors who will not only do the clean up work, but will also do repairs such as, but not limited to, repair or replace cabinets, doors, and fixtures, patch drywall, paint, and replace windows. Construction-related tasks, when performed by a company doing the clean up work, are to be assigned the appropriate construction classification. Each contract should be reviewed to determine the proper classification assignment. A division of individual work hours between classification 6602 and any construction, erection, or shop classification is not allowed. Employees having duties that fall within a construction classification and who are also engaged in preoccupancy cleanup are to be reported in the applicable construction classification.

6602-04 Janitorial cleaning services - residential

Applies to establishments engaged in providing general interior janitorial cleaning or services to residential customers. General cleaning services include, but are not limited to, washing, waxing, and polishing floors, vacuuming and shampooing carpets, dusting and washing walls, dusting or cleaning mirrors, cabinets, moldings, lights, hardware, sinks, tubs, commodes, and appliances. This classification includes window cleaning when performed in connection with a general house cleaning contract.

This classification excludes establishments engaged exclusively in contract window cleaning which are to be reported separately in classification 6602-02 and establishments engaged in commercial or combined commercial and residential cleaning which are to be reported separately in 6602-03.

6602-05 Janitors, N.O.C.

Applies to the janitorial staff assigned to clean the clerical and administrative offices of establishments whose principle business undertaking is other than providing janitorial services *and* who are eligible to report their clerical employees in classification 4904. *This classification is applicable only to janitors who clean the office area.* Janitors who clean outside the office area such as a shop, warehouse, or retail store area, are excluded from this classification and are to be reported separately in the classification applicable to the employer's business.

Special note: See the special exception section of the general rules for a complete description of these requirements.

6602-08 Pest control

Applies to establishments engaged in pest control services for others. These establishments offer inspection for, and elimination of, unwanted pests in buildings and other wooden structures. Pests include, but are not limited to, termites, carpenter ants, fleas, ticks, mice, ants, cockroaches, and bees. This classification applies to all operations of elimination services such as, but not limited to, spraying liquid or aerosol pesticide, dusting with powder, setting out traps or bait, applying pesticides to the soil to creating a chemical barrier around the base of a structure, digging trenches around foundations, and drilling holes through masonry surfaces in order to pour or pump chemicals into the infected areas. Establishments may also offer inspection and certification services for customers seeking mortgage approval.

This classification excludes any structural repairs which are to be reported separately in the appropriate construction classification.

6602-10 Portable cleaning and washing, N.O.C.

Applies to establishments engaged in cleaning and washing services not otherwise classified (N.O.C.). This classification contemplates cleaning and washing, by means of portable spray or steam power units, machinery, equipment, automobiles, trucks, recreational vehicles, mobile homes, walk-in freezers, and shopping carts. This classification also applies to the cleaning or removal of snow from roofs, gutters or downspouts of one-story buildings.

This classification excludes establishments engaged in cleaning buildings or structures, cleaning or removing snow from roofs, gutters, and downspouts on multistory buildings, which are to be reported separately in classification 0504.

6602-12 Street and building decoration: Hanging or removing flags or bunting

Applies to establishments engaged in hanging or removing flags or bunting for conventions, celebrations, events, or similar decorations on the exterior or interior of buildings, structures, or streets. Buntings are strips of decorative cloth which may be used to span a roadway to promote events, as overhead streamers at an auto sales lot, or as a sign hung on a building to advertise grand openings.

This classification excludes the manufacture of flags or bunting which is to be reported separately in the applicable classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-738 Classification 6707.**6707-00 Football teams, N.O.C.****Contact sports, N.O.C.**

Applies to players, coaches, referees, and managers employed by a professional football team that is *not a member of the National Football League (NFL)* and professional wrestlers, roller derbies, and professional (~~marital~~) martial arts competitors and their managers, coaches and referees.

This classification excludes employees engaged in caring for the team and equipment, the care and operation of the playing field/stadium and care of the facility in which the team organization is housed who are to be reported separately

in classification 6706, and officials of community or school amateur sporting events are to be reported separately in classification 6103.

Special note: Teams that are members of the NFL, including players, coaches, referees, and managers, are to be reported separately in classification 7102.

6707-01 Hockey teams

Applies to players, coaches, referees, and managers employed by a professional hockey team.

This classification excludes employees engaged in caring for the team and equipment, the care and operation of the arena/stadium, and care of the facility in which the team organization is housed who are to be reported separately in classification 6706 and officials of community or school amateur sporting events are to be reported separately in classification 6103.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-513 Classification 0307.**0307-01 Furnaces and heating systems: Installation, service or repair**

Applies to contractors engaged in the installation, service, or repair of furnaces and heating systems, including duct work, in all types of residential and commercial settings. These services are generally performed by furnace contractors, heating and ventilation contractors, or sheet metal contractors. Work contemplated by this classification includes the fabrication, erection, installation and duct work performed at the job site. Materials include, but are not limited to, gas or electric furnace units, heater units, heat pumps, air purification systems, fireplace inserts or units, hot water tanks, thermostats, flat sheets of metal, vents, preformed or bent venting duct and pipe, vent collars and reels, fittings, galvanized pipe, insulation wrap, concrete pads and gas logs. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the construction site are to be assigned classification ((~~3404~~) 3402) 3402 for the shop fabrication work. When a contractor's business is assigned classification ((~~3404~~) 3402) 3402 for shop operations, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes sheet metal fabrication shops which are to be reported separately in classification ((~~3404~~) 3402); duct cleaning work which is to be reported separately in classification 1105; installation or repair of ventilation, air conditioning and refrigeration systems which is to be reported separately in classification 0307-04; or the installation of wood stoves which is to be reported separately in classification 0307-05.

Special note: This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell furnace and heating system materials

and accessories, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a furnace and heating systems contractor are included in classification 0307. Classification 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

0307-04 Ventilating, air conditioning and refrigeration systems: Installation, service or repair, N.O.C.

Applies to contractors engaged in the installation, service, or repair of ventilating, air conditioning and refrigeration systems not covered by another classification (N.O.C.), including duct work at the job site in all types of residential and commercial settings. These services are generally performed by heating and ventilation contractors, refrigeration contractors, or sheet metal contractors. Work contemplated by this classification includes the fabrication, erection, installation and duct work performed at the job site. Materials include, but are not limited to, air conditioning units, refrigeration systems, air purification systems, hoods and protective metal covers, hot water tanks, flat sheets of metal, vents, pre-formed or bent duct portions, vent collars and reels, thermostats, fittings, galvanized pipe, insulation wrap, and concrete pads. This classification includes the installation or repair of built-in vacuum systems and air (pneumatic) tube systems, such as those at drive-up teller windows. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the construction site are to be assigned classification ((3404)) 3402 for the shop fabrication work. When a contractor's business is assigned classification ((3404)) 3402 for shop operations, then classification 5206 "Permanent yard or shop" is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes sheet metal fabrication shops which are to be reported separately in classification ((3404)) 3402; installation or repair of furnace or heating systems which is to be reported separately in classification 0307-01; and the installation of wood stoves which is to be reported separately in classification 0307-05.

Special note: This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell ventilating and air conditioning equipment and materials, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a ventilating and air conditioning contractor are included in classification 0307. Classification 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

0307-05 Wood, pellet, or gas stove: Installation, service or repair

Applies to contractors engaged in the installation, service or repair of wood, pellet or gas stoves in all types of residential and commercial settings. Work contemplated by this classification includes the fabrication, installation and duct work performed at the job site. Materials include, but are not limited to, wood, gas or pellet stoves, inserts, heater units, protective metal covers or hoods, gas fireplace logs, pre-formed or bent venting duct and pipe, or vents and vent collars. Contractors who operate a sheet metal fabrication shop or who prefabricate the duct systems in a shop away from the installation site are to be assigned classification ((3404)) 3402 for the shop fabrication work. When a contractor's business is assigned classification ((3404)) 3402 for the shop operations, then classification 5206, "Permanent yard or shop," is no longer applicable to the contractor's business for the storage of materials or repair to equipment.

This classification excludes wood stove and accessory stores which are to be reported separately in classification 6309; stove manufacturing which is to be reported separately in classification 5209; sheet metal fabrication shops which are to be reported separately in classification ((3404)) 3402; brick or masonry work which is to be reported separately in classification 0302; and the installation or repair of furnace or heating systems which is to be reported separately in classification 0307-01.

Special note: This classification includes the installation of display areas or showrooms which provide prospective customers an opportunity to inspect the quality of workmanship and products carried by the contractor. Generally, displays or showrooms are installed where the contractors store their materials. It is common for contractors subject to this classification to sell wood stove installation materials and accessories, but the intent of these areas is not to sell products to walk-in customers. Sales of these products by a wood stove installation contractor are included in classification 0307. Classifications 2009, 6309, or similar store classifications, are not to be assigned to a contracting business. Employees engaged exclusively in showing the display areas or showrooms to customers are to be assigned classification 6303 provided the conditions of the standard exception general reporting rule have been met.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-557 Classification 2004.

2004-21 Iron or steel merchants; wire rope and cable dealers

Applies to establishments engaged as iron or steel merchants or as dealers of wire rope, cable, or metal conduit. This classification includes the merchandising of nonferrous metals such as, but not limited to, copper, brass, or aluminum. This classification is distinguished from scrap metal dealers in classification 0604 who deal primarily in used metal as opposed to merchants in classification 2004 who sell new goods. Iron or steel merchants receive metal in the form of beams, sheets, plates, bars, rods, pipe, rounds, channels, angles, tubes, or coils from the mills which they unload with

overhead cranes, and store them in their shop or yard. Using power equipment such as shearers, hacksaws, drills, benders, and cutting torches, they are cut, sheared, and formed to customer specifications. Wire rope and cable dealers use coilers to wind the wire rope or cable from large spools onto smaller spools, and use saws or other cutting tools to cut it to length and large hydraulic presses to attach sockets, pulleys and other hardware to wire rope to form rigging used by the fishing, logging, and construction industry.

This classification excludes scrap metal and junk dealers which are to be reported separately in classification 0604, and rebar fabricators which are to be reported separately in classification ((~~5209~~)) 3402.

AMENDATORY SECTION (Amending WSR 05-12-031, filed 5/24/05, effective 7/1/05)

WAC 296-17-568 Classification 2903.

2903-00 Wood chip, hog fuel, bark, bark flour, fire log and lath: Manufacturing

Applies to establishments engaged in the production of products such as, but not limited to, wood chips, hog fuel, bark, bark flour, fire logs, kindling, excelsior, particleboard, and similar wood by-products.

Wood chips are small pieces of wood, generally uniform in size and larger and coarser than sawdust, commonly used to make pulp, particleboard, stuffing for products such as animal bedding, and as smoker/barbecue fuel;

Hog fuel is made by grinding waste wood in a hog machine, is larger and coarser than wood chips, and is used to fire boilers or furnaces, often at the mill or plant at which the fuel was processed;

Bark is the outermost covering of a tree which is chopped into pieces of varying sizes, and is commonly used for landscaping;

Bark flour is finely ground bark used as a filler or extender in adhesives;

Fire logs are made by forming sawdust into a log about 15 inches long and are used for fuel;

Lath is a narrow strip of wood commonly used to support shingle, slate or tile roofing, and as a fencing material;

Excelsior is the curled shreds of wood used as a packing and stuffing material, or as a raw material in making various board products;

Particleboard is a panel made from discrete particles of wood which are mixed with resins and formed into a solid board under heat and pressure.

The degree of manual labor required to make these products varies depending upon the size of the operation and sophistication of the equipment. Raw materials include, but are not limited to, logs, mill waste, bark, sawdust, or chips. Machinery includes, but is not limited to, rip saws, cut-off saws, loaders, debarkers, hog chippers, hammer mills, conveyors, sorting screens, and storage bunkers. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. The operation of portable chipping or debarking mills is included in this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the clas-

sification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-06 Wood furniture stock: Manufacturing

Applies to establishments engaged in the manufacture of wood furniture stock such as, but not limited to, tabletops, table or chair legs, chair backs or seats, panels for beds, turning squares (bolts of wood which are shaped on lathes into furniture legs) and furniture squares (standard sized - usually 2" x 2" -pieces of wood used in constructing frames of upholstered furniture). Stock may be mass produced or custom. Raw material includes dimensional lumber from hardwoods such as, but not limited to, ash or alder. If the lumber is not presurfaced, it is sanded and/or planed. It is cut to desired width and thickness with a rip saw; and cut to desired length with a cut-off saw. Pieces may be beveled with a table saw, bored with a horizontal boring machine, molded or shaped, and joints formed using a mortise, tenon or jointer. Finished stock is banded and/or palletized and usually shipped unfinished and unassembled to furniture manufacturing plants. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; manufacture of wood furniture and caskets which is to be reported separately in classification 2905; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-08 Wood door, jamb, window, sash, stair, molding and miscellaneous millwork: Manufacturing, prehang-ing or assembly

Applies to establishments engaged in the manufacture, prehang-ing or assembly of wooden doors, door components, jambs, windows, sashes, stairs, mantels, moldings, turnings, and miscellaneous millwork such as, but not limited to, shutters, door and window grilles, skylights, pillars, wainscot, and similar architectural ornaments. Doors manufactured in this classification may be for residential or commercial use, such as, but not limited to, garage, closet, warehouse, interior and exterior; they may be odd-size or standard, panel, solid, louver, hollow core, sliding, bifold and overhead. Component parts for stairs include, but are not limited to, risers, tread, balusters, hand rails, and newel posts. Fireplace mantels include both the shelf and the complete ornamental facing surrounding the firebox. Moldings include, but are not limited to, picture moldings, chair rails, quarter round, coves, and architectural molding and base. Raw materials include, but are not limited to, cut stock lumber, plywood, veneer, particleboard, cardboard, plastic laminates, glue, hardware, glass, and metal. Cutting and fitting of glass and metal components for doors and windows is an integral phase of the manufacturing process and is included within the scope of this classification. Machinery includes, but is not limited to, various types of saws (table, panel, rip, cut-off, radial arm,

trim, circular, band, jig, and miter), molders, shapers, routers, planers, finger jointers, mortises, tenons, lathes, presses, various types of sanders, drill presses, hand drills, boring machines, pneumatic nail, screw and staple guns, spray guns, chisels, air compressors, glue spreaders, drying ovens, overhead vacuum lifts, conveyor systems, fork lifts, and pallet jacks. Some door manufacturers have "door machines" which route impressions in jambs and blanks for hinge placement, and bores holes in the blank for knobs and locks; some have computerized overhead vacuum lights, electronic gluers, hydraulic lift pits, or electronically controlled saws. Prehanging doors involves boring holes in door blanks for knobs and locks, routing impressions into the blanks and jambs for hinge replacement, mounting hinges, trimming door and jamb replacements to exact size. Finishing the products with stain, paint, oil, or lacquer is included in this classification when done by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops, and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; the manufacture of metal doors, jambs, windows, and sashes which is to be reported separately in classification ((3404)) 3402; and sawmill operations which are to be reported separately in classification 1002.

Special note: Lumber yards and building materials centers subject to classification 2009 are to be assigned classification 2903-08 in addition to their basic classification if they prehang door blanks.

2903-10 Wood box, shook, pallet, bin: Manufacturing, assembly, or repair

Wood pallet dealer/recycle operations: Including repairs of pallets

Applies to establishments engaged in the manufacture, assembly, or repair of wood pallets, boxes, bins, shook, shipping crates, and storage containers. A shook is a set of unassembled sawn wood components for assembling a packing box or barrel. Shooks are usually sold to box assembly plants. Pallets may be constructed out of vertical and horizontal runners of dimensional lumber to form a slatted pallet or by attaching three evenly spaced rows of wooden blocks between two sheets of solid plywood to form a lid-block pallet. Usually, the manufacturer subject to this classification picks up pallets, boxes or shipping crates from the customer, brings them to the plant for repair, reconditioning, or rebuilding, then returns them to the customer. However, the *assembly or repair* of bins is often done at the customer's location, which is still to be reported in classification 2903-10 when performed by employees of the bin manufacturer. Raw materials include, but are not limited to, dimensional lumber, plywood, nails, staples, screws, glue, and paint. Machinery includes, but is not limited to, a variety of saws (table, rip,

radial arms, cut-off, band or trim), planers, molders, drills, boring machines, notchers, nailing machines, pneumatic stapler, screw and nail guns, conveyors, roll cases, sorting tables, pallet jacks, and fork lifts. Incoming lumber is cut to specified lengths, widths, and thicknesses with saws, then planed, bored, tongued, and grooved. Pieces are nailed, stapled or glued together to form finished products. Cut ends of pallets, bins, and boxes may be painted for design or for color identification purposes. Customer's name may be imprinted on the product using stencils and paint or wood burning tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002. Nonwood pallet/bin dealers are to be reported in the appropriate metal, fiberglass, or plastics classification.

2903-12 Wood products, N.O.C.: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of miscellaneous wood products which are not covered by another classification (N.O.C.), including, but not limited to, ladders, utility pole crossarms, beams, barricades, cable spools, slugs or ends for paper rolls, attic vents, prefabricated wall panels, gazebos, saunas, solariums, lattice panels, mall and park furnishings, playground equipment, docks and floats, parade floats, boat trailer bunks, cattle feeders, tree spreaders, tack strip, exhibit booths, weaving looms, and pottery wheels. Finishing of the product with stains or other lacquers is included in this classification when done by employees of employers subject to this classification. Raw materials include, but are not limited to, dimensional lumber, plywood, particleboard, lath, logs, glue, staples, screws, nails, stains, paints, oils, and lacquers. Operations require substantial amounts of machine work, as well as hand assembly. Machinery includes, but is not limited to, saws (table, panel, cut-off, band, jig, miter, or chain), sanders, planers, routers, shapers, molders, jointers, drill presses, boring machines, hydraulic presses, pneumatic nail, screw and staple guns. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood household and sporting goods which is to be reported separately in classification 2909; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-13 Veneer products: Manufacturing

Applies to establishments engaged in the manufacture of veneer products by laminating rough veneer to plywood or particleboard and applying plastic or polyester overlays. Laminated veneer sheets are generally sold to other manufacturers and used in the construction of items such as, but not limited to, cabinets, countertops, furniture, wall board, flooring, and shelving. Veneer products generally require no pre-finishing with paint, stain or lacquer. Raw materials include, but are not limited to, plywood, particleboard, polyester, paper, polyethylene, fiberglass, plastic laminates and glue. To make veneer products, sheets of rough veneer are individually fed through glue spreader machines which apply glue to both sides. Veneer sheets may be laminated to other veneer or to plywood or particleboard, cut to size with saws, then plastic or polyester overlays applied. Laminated sheets are fed through either hydraulic cold or hot presses to be bonded and cured. More sophisticated presses automatically feed the sheets through, and shear the laminated panels to standard 4' x 8' or 4' x 10' dimensions, or to specified lengths and widths for custom orders. Forklifts are used to move materials. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of household and sporting goods wooden ware which is to be reported separately in classification 2909; the manufacture of wood products not covered by another classification (N.O.C.) which is to be reported separately in classification 2903-12; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; the manufacture of rough veneer which is to be reported separately in classification 2904-00; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

2903-20 Wood sign: Manufacturing

Applies to establishments engaged in the manufacture of interior or exterior signs made of wood or wood products. Raw materials include, but are not limited to, dimensional lumber, plywood, molding, acrylic, paint, stain, lacquer and hardware. When additional sizing is required, saws, such as table, panel, cut-off, or radial arm, are used to cut material to desired dimensions. Pieces may be further sized, shaped, and smoothed with routers, saws, planers, or sanders. Stain, paint, or other finishes may be applied as background colors, borders or designs, with pneumatic spray guns, airbrushes, or by hand. Lettering or designs can be painted directly on the sign, cut from separate stock and glued or screwed on, or carved, routed or sandblasted. Computer-cut vinyl lettering may also be applied. Sign painting and lettering is included in this classification when done by employees of the sign manufacturer. Hand drills or drill presses are used to mount wood lettering or designs, bore holes and attach hardware used in the subsequent installation of the sign. This is a shop or plant only classification; it includes work being performed in an adjacent

yard when operated by an employer having operations subject to this classification.

This classification excludes the installation or removal of signs outside of buildings which is to be reported separately in classification 0403; the installation or removal of signs inside of buildings which is to be reported separately in classification 0513; sign painting or lettering on the inside of buildings which is to be reported separately in classification 4109; establishments that paint on or apply lettering to sign "backings" that are manufactured by others which is to be reported separately in classification 4109; the manufacture of metal or plastic signs which is to be reported separately in the classification applicable to the manufacturing process; and sawmill operations which are to be reported separately in classification 1002.

Special note: The majority of sign manufacturers also install their signs. Installation and removal of signs is to be reported separately.

2903-21 Wood truss: Manufacturing

Applies to establishments engaged in the manufacture of structural roof trusses, and/or ceiling and floor joists from wood or wood products. These products usually do not require a high degree of finishing work. Raw materials include, but are not limited to, dimensional lumber (usually 2" x 4", 2" x 6", and 2" x 8", which is kiln dried, machine stressed, and presurfaced), plywood, metal gussets, and hardware. Dimensional lumber is cut with gang, table, resaw, or radial arm saws. Cut stock is placed in a hydraulic jig assembly which holds the unassembled components in the properly aligned configuration. Pneumatic nailers are used to embed the nail clips which connect each joint of the truss. A gantry, which is an overhead crane traveling along a bridge-like frame, is used to relocate the truss along the assembly line. The assembled truss is placed in a stationary or moveable press which attaches reinforcing triangular shaped metal plates called gussets at each joint or angle. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all installation activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of door jambs, windows, sashes, stairs, molding and miscellaneous millwork which is to be reported separately in classification 2903-08; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

Special note: Truss manufacturers, whose primary customers are building contractors and building supply dealers, usually deliver their product. Delivery to the construction site often entails placing trusses onto the roof top, using boom lifts mounted on the delivery truck, which is included in this classification when performed by employees of employers subject to this classification.

2903-26 Lumber: Remanufacturing

Applies to establishments engaged in lumber remanufacturing, which is the process of converting cants, plywood, or lumber into a more specialized or higher grade product. Cants

are large slabs of wood, usually having one or more rounded edges, which have been cut from logs. The incoming stock is generally green, rough-cut, and may be owned by the customer or by the remanufacturer. Machinery includes, but is not limited to, a variety of saws, (chop, resaw, trim, rip, table, radial arm, and cut-off), planers, surfacers, sanders, molders, groovers, finger jointers, tenoners, gluers, kiln dryers, fork lifts, and trolley cars. Stock is kiln dried, resawed, planed, grooved, or otherwise treated, according to customer specification if the customer owns it, or to standard cuts if it is for resale. Remanufacturers sell lumber to construction contractors or manufacturers that use it in the construction of products such as, but not limited to, paneling, countertops, framing studs, siding, decking, fencing, railroad ties, or molding. Remanufacturers generally do not finish the material with stain, paint, or lacquer. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of roof trusses and ceiling and floor joints which is to be reported separately in classification 2903-21; veneer manufacturing which is to be reported separately in classification 2904; establishments that exclusively kiln dry and/or treat lumber with preservatives, fire retardants, or insecticides, and that do not perform any remanufacturing operations which are to be reported separately in classification 1003; and sawmill operations which are to be reported separately in classification 1002.

2903-27 Ridge cap and/or shim: Manufacturing

Applies to establishments engaged in the production of shims and ridge caps. Shims are thin wedges of wood used for filling spaces or leveling. Ridge caps are shingles which are used as a covering for roof peaks. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

Special note: This classification must be assigned only by Classification Services after a field inspection of the business has been performed. If a classification must be assigned prior to the field inspection, assign classification 1005-02.

2903-28 Wood boat: Manufacturing, repair, or refinish

Applies to establishments engaged in manufacturing, repairing, or refinishing wooden boats. Raw materials include, but are not limited to, dimensional lumber, plywood, glue, staples, screws, nails, stains, paints, oils, and lacquers. Machinery includes, but is not limited to, band saws, lathes, drill presses, jointers, planers and sanders. Other than pleasure craft, very few wooden boats have been manufactured over the last 50 years. This is a shop or plant only classifica-

tion; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the manufacture of fiberglass boats which is to be reported separately in classification 3511, and the manufacture of metal boats which is to be reported separately in the classification applicable to the materials used and work being performed.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-57001 Classification 2907.

2907-00 Wood cabinet, countertop, and fixture: Manufacturing, modifying or assembly

Applies to establishments engaged in the manufacture, modification, or assembly of wood cabinets, countertops, and fixtures. Cabinetry work contemplated by this classification includes, but is not limited to, manufacturing custom or modular cabinets, assembling prefabricated modular cabinet components, refacing existing cabinets and replacing hardware, and modifying the dimension or design of modular cabinets. Manufacturing countertops includes fabricating the core or sub top in addition to laying the plastic laminate, polyester overlay or tile when performed in the shop by employees of employers subject to this classification. Finishing that is subcontracted out to a prefinishing contractor or performed by the general or specialty construction contractor at the job site is to be reported in the classification applicable to the work being performed. Finish work, including staining, lamination, and the attachment of hardware, is included in classification 2907-00 when performed by employees of an employer subject to this classification. Fixture manufacturing includes built-in store, office, restaurant, bank and residential fixtures such as, but not limited to, showcases, display cases, end aisles, display pedestals, shelving, partitions, racks, closet organizers, bookshelves, work stations, credenzas, podiums, wall units, china hutches, entertainment centers, cashier cubicles, check-out counters, and curio cabinets. The wiring of fixtures for electrical fittings, and the cutting and fitting of plastic laminates, glass, mirrors, or metal trim, when performed in the shop, is included as an integral function of the manufacturing process encompassed within this classification. Raw materials include, but are not limited to, dimensional lumber, plywood, veneer, particleboard, plastic laminates, polyester overlays, sheet rock, slot wall dowels, hardware, mirrors, metal trim, electrical hardware, carpet, upholstery fabric, stain, paint, lacquer or glue. Machinery includes, but is not limited to, table, panel, radial arm, cut-off, chop, rip, band, and miter saws, wide belt sanders, edge sanders, hand finish jointers, mortises, tenoners, drill presses, hand drills, boring machines, edge banders, dowel machines, glue spreaders, face framing machines, pneumatic nail, screw and staple guns, air compressors, spray guns, forklifts, pallet jackets, and dust collectors. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. Lumber yards, building material dealers, or general construction contractors that maintain a separate woodworking shop for manufacturing, assembling

cabinets, and fixtures are subject to this classification for the woodworking operations, in addition to any other basic classification applicable to their business.

This classification excludes the installation of countertops only which is to be reported separately in classification 0502, the installation of cabinets, countertops, and fixtures which is to be reported separately in classification 0513; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of metal cabinets which is to be reported separately in classification ((3404)) 3402; lumber remanufacturing which is to be reported separately in classification 2903; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

Special note: Establishments primarily engaged in the manufacture of cabinets, countertops and fixtures, may make other wood products such as doors, windows, moldings, and/or furniture as an incidental activity to the main business. The manufacture of these incidental products is included within the scope of classification 2907-00. Furniture is generally moveable and unsecured. Fixtures are usually secured, stationary, permanently built-in objects. Even though some fixtures may be secured to a wall or floor, they are not intended to be relocated, unlike furniture which is frequently and more easily arranged.

AMENDATORY SECTION (Amending WSR 99-18-068, filed 8/31/99, effective 10/1/99)

WAC 296-17-580 Classification 3402.

~~((3402-00 Air compressor: Manufacturing or assembly~~

Applies to establishments engaged in the manufacture or assembly of air compressors. This includes air or gas compressors used for paint sprayers, air tools, tire inflation, and general industrial purposes. Operations contemplated include, but are not limited to, welding, machining, general mechanical and electrical work. Machinery and equipment includes, but is not limited to, hand and air tools, welders, punches, shears, and compression equipment. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

~~**3402-01 Printing or bookbinding machinery: Manufacturing or assembly**~~

Applies to establishments engaged in the manufacture or assembly of printing or bookbinding machinery. The outside casings of the machines may be made of plate metal that varies between 1" to 2 1/2" in thickness. The machines used to make the presses and binding machinery may include both Computer Numeric Controlled (CNC) and manual mills and lathes. Other machinery used in the manufacturing process

includes, but is not limited to, welders or cutters, grinders, and drill presses. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant, and the set up, installation and repair of printing or bookbinding machinery which is to be reported separately in classification 0603.

~~**3402-02 Pump, safe, scale, auto jack, and water meter: Manufacturing or assembly**~~

Applies to establishments engaged in the manufacture or assembly of pumps, safes, scales, auto jacks, and water meters. Materials range from brass screws and rubber washers used to rebuild water meters to plate metal and steel castings used for safe and pump manufacturing. Machinery includes, but is not limited to, hand tools used for repairs, lathes, welders, and pressure testers. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; the installation and repair of safes which is to be reported separately in classification 0607; and the installation of pumps which is to be reported separately in the applicable classification.

~~**3402-03 Shoe or textile machinery: Manufacturing or assembly**~~

Applies to establishments engaged in the manufacture or assembly of shoe machinery or textile machinery. Metal materials used vary in size, shape and dimension. Machinery includes, but is not limited to, drills, mills, lathes, saws, and welders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation and repair of shoe or textile machinery which is to be reported separately in classification 0603.

~~**3402-04 Confectioners or food processing machinery: Manufacturing or assembly**~~

Applies to establishments engaged in the manufacture or assembly of food processing or confectioners machinery. Metal materials used vary in size, shape and weight. These establishments often have an assembly line operation and a

separate electronic assembly area. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation and repair of confectioners and food processing machinery which is to be reported separately in classification 0603.

3402-05 Machine shops, N.O.C.

Applies to establishments engaged in general machine shop operations not covered by another classification (N.O.C.), tool sharpening, and mobile welding shops. Many of the establishments in this classification are "job shops." Size and shape of materials vary with steel and aluminum being the most common. Plastics, light weight aluminum, and alloyed metals are becoming increasingly popular in the manufacture of equipment for some industries. These establishments often have welding shops along with machine shops. Machinery and equipment includes, but is not limited to, mills, lathes, grinders, saws, welding equipment, inspection equipment, and material handling equipment. Machinery is both manual and Computer Numeric Controlled (CNC). This classification also includes "mobile shops" which are used exclusively to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pick up pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, however, sometimes the broken part is removed and taken back to the shop for repair.

This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, and mechanical repairs which are to be reported separately in the classification applicable to the work being performed.

Special note: The term "job shop" is an industry term that means the shop will produce products to customer specifications.

3402-06 Power saw, lawn and garden equipment, small motor, N.O.C.: Repair

Applies to establishments engaged in repairing small power tools, small motors powered by gas or diesel, outboard marine engines, and lawn and garden equipment not covered by another classification (N.O.C.). The largest piece of equipment repaired in this classification is generally a riding lawn mower. Classification 3402-06 is assigned in conjunction with a store classification for establishments that have a store operation and also repair the type of items they sell. Classification 3402-06 may also be assigned to a manufacturer representative who performs warranty repairs. Tools used in this type of repair are mainly hand and air tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the repair of electrical motors which is to be reported separately in classification 5201.

3402-07 Gear: Manufacturing or grinding

Applies to establishments engaged in the manufacture or grinding of gears. Establishments in this classification may also cut key slots and broaches. Establishments that cut stock to manufacture the gear are often not the same ones that perform the final grinding process. Gears may go through two, three, or four different grinding, slotting, and/or keying establishments and then go to another establishment for electroplating or galvanizing before they are ready for sale or use. Precision machine shops may grind gears to the ten thousandths of an inch. Materials used are usually stainless steel, aluminum, or plastic. Machinery includes, but is not limited to, gear shapers, drill presses, mill, hobbors, grinders, some of which might be Computer Numeric Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-08 Elevator: Manufacturing

Applies to establishments engaged in the manufacture of elevators and associated electronic components. Machinery includes, but is not limited to, mills, drills, lathes, saws, and grinders. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and the installation, service, and repair of elevators which is to be reported separately in classification 0602.

3402-11 Metal goods: Manufacturing and shop services (temporary classification)

Applies temporarily to all establishments assigned any classification within WAC 296-17-580. When the metal goods study is complete, the establishments within this classification will be assigned to the appropriate classifications. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation.

This classification excludes all activities away from the shop or plant.

3402-12 Multimedia blasting

Applies to establishments engaged in multimedia (such as, but not limited to, glass, plastic and sand) blasting opera-

tions which strip paint or other coatings from metal or fiberglass. Most of the blasting operations in this classification are done on automobiles, but it also applies to establishments that perform blasting on items such as, but not limited to, barbecue grills, and cast iron pieces. Multimedia blasting processes in this classification are performed in a shop, use less air pressure and media with softer finishes than other blasting operations. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and sandblasting of buildings or structures which is to be reported separately in classification 0504.

3402-14 Furnace, heater or radiator: Manufacturing

Applies to establishments engaged in the manufacture of furnaces, radiators, or similar heating fixtures. Materials include, but are not limited to, metal cast parts, sheet metal, aluminum, or stainless steel. Machinery includes, but is not limited to, hand tools, solder guns, punches, lathes, and saws. Establishments in this classification may have separate areas for electronic assembly and/or painting. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of radiators for automobiles or trucks which are to be reported separately in classification 3402-48; and establishments engaged in the manufacture of baseboard heaters which are to be reported separately in classification 3404.

3402-16 Die casting

Applies to establishments engaged in the manufacture of products by die casting. Die casting is a manufacturing process for producing accurately dimensioned, sharply defined metal products which are referred to as "die castings." "Dies" are the steel molds used to mass produce the product. The process begins when ingots of various metal alloys are melted in die casting machines. The machine forces the metal into the die under hydraulic or pneumatic pressure. The casting quickly solidifies in the die, and is automatically ejected by the machine, and the cycle starts again. The castings are cleaned by grinding or sanding, which also removes any excess metal "flash." Many die casting manufacturers maintain their own machine shop for making the dies. Die making, when done as a part of die casting operations, is included within the scope of this classification. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard

when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; and establishments engaged in making dies for others which are to be reported separately in classification 3402-74.

3402-26 Saw blade: Manufacturing, assembly, or sharpening

Applies to establishments engaged in the manufacture, assembly, or sharpening of saw blades such as, but not limited to, those used in circular saws, band saws, rip saws, key-hole saws, and handsaws such as hacksaws or meat saws. This classification also includes sharpening services for items such as, but not limited to, tools, scissors, and knives. Materials include, but are not limited to, high tensile steel and carbide tipped blades. Machinery includes, but is not limited to, saws, mills, drills, and hand tools. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the repair or sharpening of chain saws which are to be reported separately in classification 3402-06; and establishments engaged in the manufacture or repair of electrical saws which are to be reported separately in classification 5201.

3402-28 Heat treating metal

Applies to establishments engaged in heat treating metal. The heat treating process may use computer numeric controlled ovens or furnaces. The oven may heat up to 1200 degrees Fahrenheit and a furnace may heat up to 2000 degrees Fahrenheit. The metal(s) is placed on a platform; the platform is hydraulically moved into the first chamber and the door is automatically closed. At this time, the oxygen is burned from the chamber. Then the second chamber door is opened and the metal enters the oven/furnace. Depending upon the specifications, the heat treating process usually takes six to sixteen hours. When the metal is finished in the heating chamber it returns automatically to the first chamber. Then the platform lowers and the metals are dipped into a cooling agent. Once the metals are cooled to room temperature the platform rises, the door opens, and the materials are removed. The process is essentially the same using none computer numeric controlled heat treating equipment except that, rather than being hydraulically operated, the machine operators move the metals through the system. Many establishments do not produce a product, but heat treat a variety of products to customer specifications. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-29 Nut, bolt, screw, nail, tack, rivet, eyelet spike, needle, N.O.C.: Manufacturing**~~Sprinkler head, speedometer, carburetor: Manufacturing or assembly~~**

Applies to establishments engaged in the manufacture of nuts, bolts, screws, nails, tacks, rivets, eyelets, spikes, and needles not covered by another classification (N.O.C.). This classification also applies to establishments engaged in the manufacture or assembly of sprinkler heads, speedometers, or carburetors. Materials include, but are not limited to, steel or iron rods which may be pressed or formed, and small component parts. Machinery includes, but is not limited to, saws, shears, presses, chuekers, threading and tapping machines, some of which may be Computer Numeric Controlled (CNC). Establishments may have separate areas for deburring, inspecting, packing and shipping. The carburetor rebuilding may be performed on vehicles that are driven or towed into the shop, or on carburetors that have been already removed from the vehicles. In either case the repairs are made exclusively with hand and air tools and sometimes a diagnostic scope and a drill press. A speedometer is usually embodied with a mileage recording mechanism. The central feature of the device is a permanent magnet. There are gears, spindles, and a drive shaft present in most speedometers. There is also a unit counting disc and a spiral spring calibrator. Hand tools are used almost exclusively in the repair of this kind of speedometer. Today many speedometers are computer controlled. Basically, if this kind of speedometer is in need of repair, a computer chip(s) is replaced, using hand tools. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of hardware that is not covered under another classification, such as handles, latches, and hinges which are to be reported separately in classification 3404, and the repair of speedometers or carburetors in a vehicle which is to be reported separately in the appropriate vehicle repair classification.

3402-32 Abrasive wheel: Manufacturing

Applies to establishments engaged in the manufacture of abrasive wheels. Manufacturing operations often include a laboratory where carbon and other materials are mixed together to form the abrasive edge of the mainly high tensile steel wheels. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-40 Welding or cutting, N.O.C. (mobile operations limited to repair of equipment and machinery)

Applies to establishments engaged in welding or cutting operations not covered by another classification (N.O.C.) either in the shop or at the customer's site. Steel is the predominant material along with some aluminum alloys. Machinery is predominantly welding equipment, but may include tools such as, but not limited to, grinders, saws, drills, and material handling equipment. This classification also includes "mobile shops" which are used exclusively to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pick up pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, sometimes with the use of the customer's equipment; however, broken parts may be removed and taken back to the shop for repair.

This classification excludes repairs to buildings or structures which are to be reported separately in the appropriate construction classification and mechanical repairs which are to be reported separately in the classification applicable to the work being performed.

3402-48 Automobile or truck, radiator and heater cores: Manufacturing and repair shops

Applies to establishments engaged in the manufacture and/or repair of automobile or truck radiator and heater cores. Manufacturers in this classification may have a die casting area and a separate electronic assembly area. Tools and equipment include, but are not limited to, hand tools, solder guns, and punches. Shops that repair radiators may work on the radiators in the vehicles, but usually the radiators have been removed from the vehicle. The radiator is examined and the core may be removed. Next the radiator is cleaned, air pressurized, and dipped in a water tank to check it for leaks. Once the leaks are found they can generally be repaired by welding the holes shut. The radiator is dipped again to ensure the repair has been made properly. Cleaning the radiator may be done by sandblasting, ultra sound baths or by "rodding" the radiator to remove corrosion. Repair equipment includes, but is not limited to, welders, air and hand tools, dipping tanks, hoists, and forklifts. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-60 Office machinery, N.O.C.: Manufacturing or assembly; Cash register or sewing machines: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of cash registers, sewing machines and office machinery not covered by another classification (N.O.C.) such as, but not limited to, copiers, collators, mail/postage

machines, calculators and automatic letter openers. Component parts may be metal, plastic, or wood. Operations include, but are not limited to, cutting, shaping, forming, drilling, riveting, clamping, and bolting; there may be a separate electronic assembly area. Machinery and tools vary within this classification; some establishments use hand and air tools only, others use additional equipment such as, but not limited to, saws, lathes, mills, drills, or water jets, some of which may be Computer Numeric Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-61 Small arms: Manufacturing, assembly, or rebuild

Applies to establishments engaged in the manufacture, assembly, or rebuild of small arms. For the purpose of this classification, small arms means .50 caliber or less, such as pistols, rifles, shotguns, and light machine guns. Operations include, but are not limited to, metal stamping of casings, machining, assembling, and a high proportion of inspecting. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of ammunition which is to be reported separately in classification 4601; the manufacture or repair of heavy arms which is to be reported separately in classification 5109; and gun stores which are to be reported separately in classification 6309.

3402-74 Tool: Manufacturing, not hot forming or stamping; Die: Manufacturing—ferrous

Applies to establishments engaged in tool manufacturing or die manufacturing, for others, from ferrous materials. Tools manufactured in this classification are usually cutting tools used in lathes, mills, rotors, and saws. Machinery includes, but is not limited to, sharpeners, grinders, lathes and mills, which are both manual or Computer Numeric Controlled (CNC). The die manufacturing included in this classification includes those made exclusively of ferrous materials including, but not limited to, jigs, fixtures, and dies for metal work in general. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being

performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of machine finished tools which are to be reported separately in classification 3402-83.

3402-77 Auto, truck, semi-trailer and bus body: Manufacturing;

Travel trailer body: Manufacturing or repair

Applies to establishments engaged in the manufacture of auto, truck, and bus bodies, and in the manufacture or repair of travel trailer bodies or cargo containers. Repairs are usually made with the use of welders or cutting torches and air or hand tools. These establishments will also repair or replace hydraulic units. Material used in the manufacture of goods in this classification is usually steel and aluminum, varying in thickness from 16 gauge to plate metal up to one inch thick. Shapes include, but are not limited to, sheet metal, tubes, solid rod or I beams. Equipment includes, but is not limited to, shears, breaks, hydraulic presses, iron workers, drill presses, grinders, welders, hoist, cranes, and forklifts. Shops may have a finish sanding area as well as a paint area where the vehicle bodies are sprayed with primer, a body bonding material, or a finish coat of paint. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-83 Tool: Manufacturing and machine finishing

Applies to establishments engaged in manufacturing and machine finishing tools. Tools manufactured in this classification are usually hand held instruments such as, but not limited to, wrenches, screw drivers, hammers, torque wrenches, pliers, and sockets. Machinery includes, but is not limited to, air and hand tools, polishers, grinders, inspection equipment, mills, lathes, shapers, and drill presses, some of which may be Computer Numeric Control (CNC). Establishments may have a galvanizing and/or electroplating area for the finish work which is included when performed by employees of employers subject to this classification. Other establishments in this classification send the finish work out. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of tools from ferrous materials which are to be reported separately in classification 3402-74; and establishments engaged

in tool forging which are to be reported separately in classification 5106.

3402-85 Auto or truck parts: Machining or rebuild not in vehicle

Applies to establishments engaged in machining or rebuilding auto or truck parts such as, but not limited to, water pumps, fuel pumps, transmissions, heads, brake drums, ball joints, and rear ends, which are not in the vehicle. Work contemplated in this classification may also include manufacturing sockets, pulleys, shafts, fittings, flywheels, and/or bearings. Machinery includes, but is not limited to, mills, lathes, grinders, sanders, presses, welders, and balancing equipment. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in manufacturing or rebuilding auto, truck, or aircraft engines which are to be reported separately in classification 3402-86.

3402-86 Auto, truck or aircraft engine, N.O.C.: Manufacturing or rebuilding

Applies to establishments engaged in manufacturing or rebuilding auto, truck, or aircraft engines not covered by another classification (N.O.C.), including manufacturing the component parts. Establishments in this classification often specialize in the type of engines they make or rebuild. The basic difference between automobile, truck, and aircraft engines is the size and weight of the parts being worked on. Engine rebuild shops use many specialized machines and air tools to tear the core down to an engine block; then rebuild the engine. After the engine is stripped down to the engine block, it is placed in a machine called a baker which heats to approximately 600 degrees and bakes away the grease. After baking, the engine block is placed in a sand blaster where the surface is cleaned with very fine steel shot. The engine block is then placed in a large pressure washer which removes the steel shot. Next, the crank and cam shafts are ground and turned on machinery similar to lathes. There is usually a separate room or area which is called the "head shop" where the heads and valves are machined on valve grinders, valve facers, and head grinders. Engine rebuild shops that do not have the equipment to grind the crank and cam shafts will contract work out to other shops, or buy new crank shafts and cam shafts. Other machinery includes, but is not limited to, boring bars and hones to polish cylinder walls, small pressure washers for oil pans and other smaller parts, solvent tanks, and hoists or forklifts for lifting the engines or engine parts. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in machining or

rebuilding auto or truck parts, other than engines, which are to be reported separately in classification 3402-85.

3402-91 Bed spring or wire mattress: Manufacturing

Applies to establishments engaged in the manufacture of bed springs or wire mattresses. The wire stock is coiled and cut to length on a coiling machine, then tempered in an oven to produce the spring. The coils are fastened to the frame either by hand or by machine. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of stuffed mattresses which are to be reported separately in classification 3708.

3402-93 Valve: Manufacturing

Applies to establishments engaged in the manufacture of valves. Valves regulate the flow of air, gases, liquids, or loose material through structures by opening, closing, or obstructing passageways. They are operated manually, electrically, with compressed air, or hydraulic pressure. Valves are usually cut from aluminum, steel, or stainless steel either by a Computer Numeric Controlled machine (CNC) or water jet machine. Depending upon the complexity of the valve, they are assembled in one or several stages. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged in the manufacture of valves made in a die mold which are to be reported separately in classification 3402-74.

3402-94 Precision machined parts, N.O.C.: Manufacturing

Applies to establishments engaged in manufacturing precision machined parts not covered by another classification (N.O.C.). Most of these establishments are "job shops." Job shops make component parts for other businesses according to customer specifications, rather than manufacturing a specific product. Many establishments in this classification manufacture precision parts for the aerospace industry. Machining usually begins with solid blocks of material such as, but not limited to, steel, aluminum, titanium, inconel, or plastic, although some hollow tube, flat bar, and angle stock may also be used. The "rough cuts" are often made on manual machines, and the finish cuts on Computer Numeric Controlled (CNC) machines. Depending on the establishment and the job specifications, a specific part may be sent to one or more additional shops to be tempered, milled, or inspected before the original establishment is through with the manu-

facturing process. Some parts are so sensitive that climate controlled conditions are necessary. Both manual and CNC mills and lathes are the most common types of machines used. Others include, but are not limited to, saws, drills, and grinding machines. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-95 Storage battery: Manufacturing, assembly or repair

Applies to establishments engaged in the manufacture, assembly, or repair of storage batteries. Lead ingots, weighing 20-25 pounds, are melted and poured into a mold or casting machine. After the grids are cooled lead oxide is then pumped onto each side of a grid and cured by baking in an oven of about 300-400 degrees F. The plates are then assembled by placing a negative separator (zinc) between a positive separator (copper), and so forth until there are enough of these cells to form the battery. Next, they are sent to a burning machine that cures the paste and plates. After the burning process, the plates are placed into a plastic or hard rubber box-like container and cured for two or three days. The plates are welded together and the top is attached to the body of the battery case with an epoxy glue. Diluted sulfuric acid is added to the battery and then it is put on a charger. The battery is then cleaned and packed for shipping. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant; establishments engaged in the manufacture of dry-cell (flashlight type) batteries which are to be reported separately in classification 3602; and establishments engaged in battery sales and installation which are to be reported separately in the applicable automotive services classification.

3402-96 Automobile or motorcycle: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of automobiles or motorcycles. Most of the manufacturing operations, such as cutting, milling, and turning, are performed with Computer Numerically Controlled (CNC) machinery. Most of the assembly operations are performed with air and hand tools. Other machinery includes but is not limited to saws, grinders, and drill presses. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or

assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant and establishments engaged only in the manufacture of auto bodies which are to be reported separately in classification 3402-77.

3402-98 Machinery, N.O.C.: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of machinery not covered by another classification (N.O.C.). For purposes of this classification, machinery means any combination of mechanical parts constructed primarily with metal. Finished products vary widely and range from hand held machines to those weighing thousands of pounds; products include, but are not limited to, grinding machines, boring machines, conveyer systems, and wood chippers. Machinery used to manufacture these items includes, but is not limited to, lathes, mills, press, breaks, shears, and welders, some of which may be Computer Numerically Controlled (CNC). This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.

3402-99 Photo processing machinery: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of photo processing machinery such as, but not limited to, photo processors or film enlargers. This classification includes the repair of items being manufactured or assembled when done by employees of an employer having operations subject to this classification when the repair is done as a part of and in connection with the manufacturing or assembly operation. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant.))

3402-88 Metal goods manufacturing, N.O.C.

This classification applies to all establishments engaged in the manufacture of metal products not covered by another classification (N.O.C.), the manufacturing of metal products by die casting, and battery manufacturing. Types of metals used include, but are not limited to, aluminum, stainless, iron, steel, copper and brass. Metal materials used vary in size, shape and dimension. Some of the more common types are sheet, flat bar, plate, angle, solid, channel, I-beams, and hollow stock. Typical types of machinery used would include, but not be limited to, drills, mills, lathes, saws, welders, brake presses, iron workers, boring mills, paint booths, sandblasting booths, hoists, shears, grinders, baking ovens and some computer numeric controlled machinery. This classification

includes the repair of items being manufactured when done by employees of the employer having operations subject to this classification when the repair is done as part of, and in connection with, manufacturing operations.

This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, firms which machine or manufacture metal products primarily with computer numeric controlled machinery which are to be reported in 3405, and the installation of machinery which is to be reported in the applicable risk classification.

3402-89 Metal products assembly, N.O.C.

This classification applies to establishments engaged in the assembly of machinery, or metal products or equipment that are not engaged in the manufacture or fabrication of the composite parts. Establishments assigned to this classification will purchase all of the parts used in the assembly of goods from other nonrelated businesses. This classification includes the repair of the product that they are assembling provided the repair activities are limited to replacement of parts purchased from others and does not involve the manufacture, fabrication or machining of parts.

3402-90 Machine shop services, N.O.C.

This classification applies to establishments that are involved in activities such as but not limited to, welding services, multimedia blasting in shop, small engine repair, saw and knife sharpening, heat treating and gear grinding. This classification also includes "mobile shops" which are used exclusively to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pickup pulling a utility trailer equipped with hand tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, however, sometimes the broken part is removed and taken back to the shop for repair. If a firm is involved in any fabrication or manufacturing operations then the applicable manufacturing classification shall be assigned.

This classification excludes repairs to buildings and structures which are to be reported separately in the appropriate construction classification, mechanical repairs of industrial machinery and construction equipment which are to be reported separately in 6409, and mechanical repairs to passenger vehicles which are to be reported separately in 3411.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-594 Classification 3602.

3602-01 Electrical, telegraph or radio component, telephone set: Manufacture, assembly, or repair

Applies to establishments engaged in the manufacture, assembly, or repair of components related to the telegraph, electrical, radio or telephone industry. Component parts may be for items such as, but not limited to, radio or television sets, hearing aids, transformers, coils, condensers, switches, antennae, phones, speaker units, dials, rheostats, plugs, arrestors, resistors, and electrical control relays, circuit breakers, or other parts necessary to accomplish radio, electrical, telegraph or telephone communication. Materials include, but are

not limited to, metal, plastic, and wood used for the outside casings, and component parts. Some establishments in this classification manufacture the casings and the internal components. Other establishments in this classification assemble the ready-made parts with air and hand tools such as, but not limited to, drill presses, solder guns, or saws. Internal parts are usually assembled simply by clamping circuit boards in place, then soldering small pieces together. This classification includes engineers, research and laboratory personnel employed by establishments having operations subject to this classification. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-02 Instrument - scientific, medical, or professional: Manufacturing; magnetic tape: Manufacturing

Applies to establishments engaged in the manufacture of instruments used in medical, scientific, or professional applications. This classification also applies to establishments engaged in the manufacture of magnetic tapes. Instruments in this classification range widely in shape and size; they include, but are not limited to, dental or surgical instruments, microscopes or other scientific testing or research instruments, surveyors' instruments, and electrical testing instruments. Materials include, but are not limited to, metal, glass, plastic, or wood for casings, and component parts. Processes vary depending upon the product being produced, and could involve some stamping, machining, and heat-treating. However, component parts are usually manufactured by others, and establishments in this classification perform a substantial amount of hand assembling, inspecting, testing, and packaging operations. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-03 Sound recording equipment: Manufacturing

Applies to establishments engaged in the manufacture of sound recording equipment. Establishments in this classification may manufacture all or some equipment such as instruments for measuring sounds, and generators (for producing sounds), filters or modulators (for processing sounds), magnetic or tape recorders (for storing sounds), and speakers (for reproducing sounds). Materials include, but are not limited to, metal, glass, plastic, or wood for casings, clamps, glue or epoxy, and component parts. Components may be produced by the manufacturer or purchased from others and assembled. The assembly may be partially or wholly automated. Machinery includes, but is not limited to, shears, drill presses, grinders, soldering guns, welding equipment, and air

or hand tools. There may be inspection areas and sound testing rooms. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-04 Thermometer and steam gauge: Manufacturing

Applies to establishments engaged in the manufacture of thermometers and/or steam gauges. The most common type of thermometer is a mercury thermometer which consists of a capillary tube that is sealed at its upper end and is enlarged into a spherical or cylindrical bulb at its lower end. This bulb is filled with mercury and mounted on a thin metal or plastic sheet. The manufacturers of steam gauges may simply assemble component parts with hand tools, test, and package them. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-05 Dental laboratories

Applies to establishments engaged in the manufacture of dentures, artificial teeth, braces, and retainers. These types of establishments are generally referred to as dental laboratories. The manufacture of these items involves precision work with castings, plastic or vinyl molding, and light wire forming. In the state of Washington dental laboratories can fit patients for dentures, in addition to making the denture which is included when performed by employees of employers subject to this classification. This is a shop only classification. Repair work when specified is limited to work performed at the shop.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-06 Jewelry: Manufacturing or engraving; trophy assembly or engraving

Applies to establishments engaged in the manufacture or engraving of jewelry, such as, but not limited to, rings, bracelets, necklaces, earrings, watchbands, pins, broaches, and cigarette lighters. Jewelry manufacturing or engraving involves working with precious metal and/or stones. Operations usually include polishing, buffing, drilling, and assembly, mixing and melting alloys and metals, then pouring the mixture into small casts. This classification also applies to establishments engaged in assembling or engraving trophies on a production basis. For purposes of this classification, assembly means making trophies from premanufactured components purchased from others. The engraving may be done by "etch-

ing" or by computer. In the etching method, patterns or lettering is cut into a metal strip that is coated with a solution resistant to etching acids. The metal strip is treated with etching acids that "melt away" the uncoated portion of metal, leaving an impression of the design. Computerized engraving is done by keying the designs or letters into the computer; the designs are transmitted to an "arm" on the computer which "draws" (engraves) them onto the metal plate. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification; the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used; and establishments engaged in the manufacture of watches which are to be reported separately in classification 3602-09.

Special note: This classification is for manufacturers engaged in the mass production of jewelry items and is distinguishable from jewelry stores reported in classification 6308 who produce custom, one-of-a-kind pieces on a special order basis. Trophy stores in classification 6308 may assemble components to make custom trophies, or engrave plaques for the trophies they sell. Assembly and engraving that is incidental to their retail sales operation is included in their store classification.

3602-07 Electronic parts: Assembly

Applies to establishments engaged in the assembly of electronic parts which are usually sold to other manufacturers. They may have automated/robotics assembly lines for all or part of the processes. In manual operations, small parts are soldered, chipped, riveted, or screwed into place with hand tools such as, but not limited to, soldering guns, riveters, drills, screw drivers, or water jets. This classification also applies to establishments engaged in the manufacture or assembly of computers and the manufacture of dry cell (flashlight type) batteries. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-08 Electrical/electronic ignition assembly, cord set, or radio set: Assembly

Applies to establishments engaged in the assembly of electrical/electronic ignition assemblies, cord sets, and radio set components. An ignition assembly is a switching component that allows an electrical circuit to be completed in order to start a piece of machinery or equipment. Electrical cord sets are the portion of wiring found on appliances and tools that plug into electrical power sources. A radio set is comprised of an input circuit for tuning in to the frequencies of the various transmitters to be received, the demodulation circuit for separating the audio-frequency from the high-frequency carrier, a low-frequency amplifier stage, and the

loudspeaker. The amplifier elements are transistors supplied with the necessary operating voltages. Establishments in this classification usually assemble radio component parts and circuit boards that are manufactured by others. The assembly is accomplished by soldering, clipping, riveting, and welding the parts into place. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-09 Watch: Manufacturing

Applies to establishments engaged in the manufacture of watches. The component parts are usually mass produced on an assembly line. Watch cases are usually made from sheet metal or plastic; watch faces are made from plastic or glass. The internal works are very small gears or springs and/or computer chips. The face may have hands and a dial, or may consist of a light emitting diode (LED). This classification includes the manufacture of internal works of clocks. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes establishments engaged in the manufacture of jewelry which are to be reported separately in classification 3602-06; establishments engaged in the manufacture of wooden housings or casings for clocks such as grandfather and mantle types which are to be reported separately in classification 2905; all outside repair work which is to be reported separately in the applicable services classification; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-10 Camera, video camcorder, motion picture projectors: Manufacturing, assembly, or repair

Applies to establishments engaged in the manufacture, assembly, or repair of cameras, video camcorders, and motion picture projectors. Materials include, but are not limited to, metals, plastics, glass and internal components. Machinery includes, but is not limited to, punch presses, drill presses, and soldering guns. Establishments in this classification often assemble products from internal components manufactured by others. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

Special note: When an establishment subject to this classification has a retail store, then both classifications 6406 and 3602-10 may be assigned, provided all the conditions of the general reporting covering the operation of a secondary

business have been met. Otherwise, all operations are to be reported in the highest rated classification of the two.

3602-11 Fishing tackle: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of fishing tackle. For purposes of this classification, the term fishing tackle is limited to lures, spinners, spoons, flies, plugs, sinkers, artificial bait and similar items. Work contemplated by this classification includes the receipt of supplies such as wire, hooks, spoons, swivels, beads and feathers, and other components from unrelated manufacturers and distributors, hand assembly of components into finished fishing tackle, painting spoons and plug bodies, packaging and shipping. This classification also contemplates testing of products and research and development of new products. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes the manufacture of items such as, but not limited to, reels, poles, nets, tackle boxes, knives, melting pots, plastic beads, wooden or plastic plug bodies, hand tools (pliers, bench vise) molds, specialty clothing or protective gear which are to be reported separately in the classification applicable to the material and process used to produce the product; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

Special note: Care should be taken when assigning this classification to verify that the product being manufactured is compatible with the manufacturing and assembly processes contemplated within this classification. Most fishing tackle subject to this classification is hand assembled from small component parts.

3602-12 Incandescent lamp or electric tube: Manufacturing

Applies to establishments engaged in the manufacture of electrical or gas-filled bulbs or tubes such as, but not limited to, incandescent lamps, photoflash lamps, flood lamps, fluorescent tubes, X-ray tubes, cathode-ray tubes, neon tubes or artistic style neon tube signs that are not attached to metal backings. The processes and equipment will vary somewhat depending on the type of electrical bulb, tube, or lamp being made, but the basic operation is the same. Component parts such as, but not limited to, glass bulbs, globes, or tubes, tungsten wire, metal bases, shellac, and nitrogen and argon gas are purchased from outside sources. Using flange machines, the bottom of the glass tubing is fused to the flange to produce the base that is used within the bulb or globe. Metal bases may be milled, then coated with a sealing compound such as shellac. Mounts are assembled and inserted into the flange on stem machines. The assemblies are seared together, then the tungsten filaments are fixed between support wires forming the stem. The bulbs or globes are flushed with nitrogen to expel any moisture before the stems are inserted into them. These units are inserted into the metal bases and cemented. Air is evacuated and argon gas is pumped into the bases, after which they are heat sealed and trimmed. Neon tube signs or displays are made by heating a thin tube of glass over a ribbon flame until the tube becomes flexible, blowing air into the tube to keep the glass from collapsing, then, while

it is still hot, bending it to shape. Because the glass cools rapidly, the heating and bending is repeated until the desired shape is achieved, then the tube is filled with neon or argon gas and the ends sealed.

This classification excludes establishments engaged in the manufacture of metal fixtures equipped with electrical or gas lighting which are to be reported separately in classification ((3404)) 3402; all outside repair work which is to be reported separately in the applicable services classification; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-14 Musical instrument - metal: Repair

Applies to establishments engaged in the repair of metal musical instruments which include, but are not limited to, trumpets, trombones, French horns, and tubas. The operations involve primarily hand work such as, but not limited to, brazing and soldering, as well as fitting, testing, and polishing the instruments. Tools include, but are not limited to, solder or brazing guns, lathes, drill presses, and various types of saws. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification; the repair of wood musical instruments which is to be reported separately in classification 2906; and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-23 Electronics products - resistors, capacitors, chips and relays, transistors: Manufacturing

Applies to establishments engaged in the manufacture of resistors, capacitors, chips, relays, and transistors which are usually tiny and delicate. Products manufactured in this classification are usually mass produced with little human intervention during the production process, which is often done in a vacuum or a nitrogen filled room. Materials include, but are not limited to, silicon, wires, and plastics. In addition to the automated equipment, hand-held tools include, but are limited to, pliers, wrenches, and soldering guns. Finished products are inspected, usually through powerful microscopes, then packaged and shipped. This is a shop or plant only classification. Repair work, when specified, is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-24 Stamped metal goods: Manufacturing

Applies to establishments engaged in the manufacture of small, stamped, metal goods such as, but not limited to, metal tags, buttons, zippers, bottle caps, fasteners, snaps, clasps, buckles, and curtain fasteners. Materials, which come in coils or strips, are run through presses. Most of the stamping is done on automatic stamping presses. Products are cut, stamped, formed, trimmed, and cleaned, then usually finished

by plating or lacquering. This is a shop or plant only classification. Repair work, when specified, is limited to work performed at the shop or plant.

This classification excludes the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-27 Electronic circuit board, N.O.C.: Assembly

Applies to establishments engaged in the assembly of electronic circuit boards not covered by another classification (N.O.C.) which are used in a wide variety of electronic and automotive products. The process usually begins by cutting boards to size with power saws, then drilling or punching holes in them with automated drills or punches. Depending upon the original materials used, the boards used for the base may be coated or dipped. Then the chips, transistors, resistors, and/or condensers are installed, usually as part of an assembly line process. Next, the circuit boards are dipped and coated with a thin metal. Finished products are inspected, tested, packaged and shipped. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

3602-28 Stereo components: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of stereo components such as, but not limited to, record changers, disc or video players, receivers and amplifiers. Materials include, but are not limited to, circuit boards, resistors, drivers, baffle plates, chambers, trim/rings, and grills. Equipment includes, but is not limited to, hot glue guns, electric drills, electric screw drivers, and automated assembly or manufacturing equipment. Finished products are inspected, tested, packaged and shipped. This is a shop or plant only classification. Repair work when specified is limited to work performed at the shop or plant.

This classification excludes all outside repair work which is to be reported separately in the applicable services classification, and the production of raw materials used in the manufacturing of the above articles which is to be reported separately in the classification applicable to the production process used.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-595 Classification 3603.

3603-10 Furniture stripping and refinishing; metal plating or polishing, rustproofing, N.O.C.

Applies to establishments engaged in stripping and refinishing wood or metal furniture, or metal plating (a coating of metal on an object), polishing, and rustproofing that is not covered by another classification (N.O.C.). Furniture refinishing contemplated by this classification includes, but is not limited to, preparing articles for finishing or refinishing by

dipping in chemical solutions/acid baths to remove the old finish or dirt, sanding and wire brushing as needed, thoroughly removing all residues, applying new finish by brushing, rolling, spraying or dipping, air or oven drying, and any appropriate finish work such as waxing, polishing and buffing when done by employees of an employer having operations subject to this classification. *Metal plating* contemplated by this classification may be done by dipping in hot solution or spraying with a very high pressure, heated gun. *Electroless plating* is another type of dipping process which can be used to plate metals, plastics, and other materials by first preparing the surface with a chemical to ensure adhesion of the metal plating material. *Rustproofing*, as contemplated by this classification, is usually applied by dipping or spraying. Plated items may be finished by lacquering and polishing. *Polishing* may also be conducted as a separate contract on metal and nonmetal items.

This classification excludes furniture finishing/refinishing done in conjunction with manufacturing or repair which is to be reported separately in classification 2905; metal plating, polishing, rustproofing and finishing done in conjunction with manufacturing of metal or a metal product which is to be reported separately as applicable to the product; undercoating of automobiles or other vehicles which is to be reported separately in classification 3411; metal plating done by an *electrolytic method* and rustproofing by *anodizing method* which are to be reported separately in classification 3603-11.

3603-11 Electroplating and detinning, N.O.C.

Applies to establishments engaged in providing electroplating or detinning services that are not covered by another classification (N.O.C.). Work contemplated by this classification includes, but is not limited to, preparing items by dipping in chemical solution/acid baths to remove old finish or dirt, sanding and wire brushing as needed, removing all residues thoroughly, electroplating to create the new finish, air or oven drying, any appropriate finish work such as polishing and buffing, and electrolytic or chemical baths for detinning processes, when done by employees of an employer having operations subject to this classification. *Electroplating* (including galvanizing and tinning) to achieve a protective or decorative coating is done by immersing the metal object in a solution which contains the desired metallic particles (metals commonly used are gold, silver, nickel, zinc and chromium) and passing an electric charge through the solution which causes the metal particles to adhere to the object being plated. Typical items plated include, but are not limited to, jewelry, plumbing hardware and components, silverware, eyeglass frames, medical instruments, and various specialized industrial components of any size. Plated items may be polished and lacquered as part of the finishing process. This classification includes *anodizing* to rustproof aluminum and some aluminum alloys by immersion in an acid bath and applying an electric charge to the metal which causes the finish to form on it. *Detinning* is the process of recovering tin from tin plated scrap. The "chemical process" involves using caustics and an oxidizing agent which causes the tin to separate from the metal it was plated to. A variation of this method introduces electrolysis to achieve a purer reclamation. The "chlorine process" uses chlorine applied under pressure to dissolve the tin and separate it from the tin plated scrap.

This classification excludes any electroplating or rustproofing by electrolytic methods done in conjunction with the manufacturing of metal or a metal product which is to be reported separately as applicable to the product; metal plating, polishing or rustproofing not using electrolytic methods which is to be reported separately in classification 3603-10; galvanizing or tinning done by hot dip process which is to be reported separately in classification 3604; and any detinning not done by a specialty shop as described above.

3603-12 Painting in shop, N.O.C.

Applies to establishments engaged in providing painting services at their shop, that are not covered by another classification (N.O.C.). This includes painting wood, metal, plastic, glass or other items. Customers include manufacturers, cabinetmakers or millwork manufacturers who do not do their own finish painting/staining/varnishing, or individuals who need only one item painted. Work contemplated by this classification includes, but is not limited to, preparing items for finishing by cleaning, sanding and wire brushing as needed, applying new finish by brushing, rolling, spraying or dipping, air or oven drying, and any appropriate finish work such as waxing, polishing and buffing when done by employees of an employer having operations subject to this classification. This classification includes application of nonmetallic coatings by dipping (such as nonstick surfaces) and painting with an electrostatic paint gun.

This classification excludes *sign painting* when done by establishments who do not manufacture the sign, which is to be reported separately in classification 4109; any painting done in conjunction with the manufacture of a sign which is to be reported separately in classification 2903, ((3404)) 3402, 3503 or 3510 as applicable; painting done in conjunction with the repair of an exterior sign which is to be reported separately in classification 0403; furniture stripping and refinishing services which are to be reported in classification 3603-10; furniture finishing done in conjunction with manufacturing or repair which is to be reported separately in classification 2905; automobile painting which is to be reported separately in classification 3412; the permanent yard or shop of a painting contractor which is to be reported separately in classification 5206 provided the conditions set forth in WAC 296-17-675 have been met; and the painting/staining/varnishing of any item done in conjunction with the manufacturing of that item which is to be reported separately as applicable to the product.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-670 Classification 5201.

5201-75 Electric power or transmission equipment: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of electrical power or transmission equipment, most of which is industrial and is used by public utilities for the transmission of electrical power. Equipment manufactured includes, but is not limited to, transformers, switchboards, circuit breakers, switches or switchboard apparatus, power switching devices or systems, and power invertors.

Transformers step down voltage from very high to a lower voltage. Switching equipment is normally used to switch the electricity from an incoming line to outgoing lines. Transformers are usually made from sheet metal which is approximately 14 gauge. Machinery used to manufacture transformers is similar to that used in a sheet metal shop. Winding machines are also used to wind wire to form a coil which is placed inside the transformer. This is a shop or plant only classification.

This classification excludes the installation, service or repair away from shop of products manufactured which are to be reported separately in the applicable classification; the installation, removal, and repair of electric power or transmission equipment or machinery by a contractor which is to be reported separately in the classification applicable to the work being performed.

Special note: Switchboards, current breakers and switches subject to this classification are distinguishable from switchboards, current breakers and switches covered in classification 3602. Classification 3602 switches are those found on personal computers, household light switches, and small electrical appliances compared to switches manufactured in classification 5201 which are large metal bars used in power plants and substations. Circuit breakers covered in classification 3602 are of the size found in household breaker panels compared to circuit breakers covered in classification 5201 which appear more like large round cylinders with flat metal bars extruding from the cylinders. Switchboards covered in classification 3602 are computerized systems such as telephone systems compared to industrial switchboards such as those used in rail systems for switching trains on tracks.

5201-76 Electric toasters, frying pans, wire harnesses, vacuum cleaners, electrical appliances, N.O.C: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of electric toasters, frying pans, wire harnesses, vacuum cleaners (including central vacuum systems), table top or counter top electrical appliances which are not covered by another classification (N.O.C.) including, but not limited to, electric shavers, steam and dry irons, waffle irons, can openers, mixers and blenders. *Wire harnesses* are the configuration of wires making up the electrical circuit inside an appliance or vehicle that does not include the cord set which will connect the appliance to the power source. The manufacturing process contemplated by this classification is the assembly of component parts and casings, purchased from other manufacturers, with small hand tools such as, but not limited to, drills, screwdrivers, rivet guns, and soldering or brazing tools. This is a shop or plant only classification; all activities away from the shop or plant are to be reported separately.

This classification excludes establishments engaged in the repair of household appliances for others which are to be reported separately in classification 0607; establishments engaged in the manufacture of larger household appliances such as electric ranges, washing machines and refrigerators which are to be reported separately in classification ((3404)) 3402; establishments engaged in the assembly of electric cordset radio and ignitions which are to be reported separately in classification 3602; and the service or repair away

from shop of products manufactured in this classification which are to be reported separately in the applicable classification.

5201-78 Electric motors, generators, alternators, starters, convertors, solenoids and servomotors: Manufacturing or assembly including repair

Applies to establishments engaged in the manufacture or assembly of electric motors, generators, alternators, starters, convertors, solenoids and servomotors of all sizes and horsepower. *Convertors* convert electricity from one voltage to another; *solenoids* are switches used to control the flow of electrical current; *servomotors* are electrical motors used to help control a mechanical device. This is a shop or plant only classification; all activities away from the shop or plant are to be reported separately.

This classification excludes the installation, service, or repair away from shop of products manufactured in this classification which are to be reported separately in the applicable classification and the installation, removal, and repair of electric power or transmission equipment in machinery by contractor which is to be reported separately in classification 0601.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-739 Classification 6708.

6708-01 Jockeys

Applies to jockeys riding horses in a race, or working with the horses in any way, during the dates of a scheduled race meet. Coverage during a race meet is through election of optional coverage and is to be reported at ten hours per mount per race or ten hours per day if not riding in a race. Coverage outside the dates of a race meet is mandatory. Jockeys will be considered exercise riders when employed by a trainer and/or owner at a time other than during the dates of a scheduled race meet and are then reportable in classification 6614, 6616, or 7302 as appropriate to their job duties.

6708-02 Professional motor vehicle or watercraft race drivers

Applies to professional motor vehicle/water craft race drivers during a competition. Coverage during a competition is mandatory and is subject to a division of hours as provided in the general exclusion section of the general reporting rules.

When not driving during competition, hours worked are reportable as appropriate to the work being performed; maintenance of a racing motor vehicle and/or pit crew operations which is to be reported separately in classification 3411; assembly of a racing motor vehicle which is to be reported separately in classification 3402; maintenance of a racing water craft and/or pit crew operations which is to be reported separately in classification 3414; assembly of a racing water craft which is to be reported separately in classification 2903, ((3404)) 3402 or 3511 as appropriate; and any other work usually done for this employer which is to be reported separately as appropriate to the employees usual job duties.

This classification excludes piloting an aircraft in a race which is to be reported separately in classification 6803 for a plane or 6801 for a hot air balloon.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-17-582	Classification 3404.
WAC 296-17-669	Classification 5109.
WAC 296-17-67601	Classification 5208.
WAC 296-17-67602	Classification 5209.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-536 Classification 1101.**1101-04 Automobile delivery or repossessing**

Applies to establishments engaged in delivering or repossessing individual automobiles for others. Generally, a client will contact the service company and arrange for a car to be delivered to a specific destination or request that a car of which they (client) is the legal owner, be repossessed and delivered to a specific location. In either case, a driver, not a motorized transportation service, does the delivery. Duties of employees subject to this classification are generally limited to unlocking vehicles and driving. It is common on long distance deliveries for the service company to use more than one driver. This classification also applies to drivers of sound trucks.

This classification excludes operation of tractor/trailer combinations to transport vehicles which is to be reported separately in classification 1102 or classification 1109, depending on the method of transporting.

1101-06 Delivery by retail and wholesale stores and distributors, N.O.C.

Applies to employees of retail and wholesale stores engaged in inter-store delivery, customer merchandise delivery when excluded from the store classification, and delivery not covered by another classification (N.O.C.). Employees subject to this classification are generally involved in loading and unloading delivery vans or trucks and driving from store to store, or from a store to a customer's location. Drivers may or may not have designated routes or delivery areas. This classification is not applicable to establishments engaged in general trucking services which are to be reported separately in classification 1102. Classification 1101 is distinguishable from delivery operations reported in classification 1102 in that businesses covered by classification 1102 generally do not own the merchandise they are transporting.

1101-09 Parcel delivery companies for delivery of small parcels

Applies to establishments engaged in the delivery of small parcels for others. Establishments subject to this classification may offer overnight express services, but usually do not deliver packages that exceed 150 pounds. Work contemplated by this classification includes, but is not limited to, driving, loading and unloading delivery vehicles. This classification also applies to contract mail delivery route drivers and contract hauling of mail between post offices.

This classification excludes the delivery of bulk freight such as that delivered by trucking companies which are to be reported separately in classification 1102.

1101-14 News agents or distributors of magazines, periodicals and telephone books - no retail dealers

Applies to establishments engaged in the distribution of newspapers, periodicals, and telephone books. Work contemplated by this classification includes, but is not limited to, driving, loading and unloading the vehicles, stocking shelves, and removing old periodicals from shelves.

1101-17 Driver delivery sales, N.O.C.

Applies to establishments engaged in route sales of a wide variety of merchandise not covered by another classification (N.O.C.), including, but not limited to, hand tools, automotive supply, and household items. Sales personnel deliver products, show samples and solicit further orders. They may also call on new customers along their route. The classification also applies to establishments or employees known as merchandisers who deliver products to their customer's place of business then perform related merchandising functions such as taking inventory of goods on hand, restocking, reordering, removing outdated or damaged merchandise from shelves or the premises, and/or assembling temporary displays which are usually made of lightweight material such as cardboard or plastic and used for promotional or seasonal goods. These merchandisers often deal in products such as, but not limited to, greeting cards, over-the-counter medications, and grooming products.

This classification excludes employees of establishments who provide merchandising services, but who do not deliver products to the customer's place of business, who may be reported separately in classification 0607; and establishments engaged in the set up or removal of advertising or merchandise displays that involve more than incidental assembly of seasonal or promotional exhibits which are to be reported separately in classification 0607.

Special note: The distinguishing factor between merchandising employees who are to be reported in classification 1101-17 and those who may be reported in classification 0607 is the delivery of products to the customer's place of business. Any employee who delivers merchandise to the customer's place of business is to be reported in classification 1101.

1101-19 Route food services

Applies to establishments engaged in route food services where prepackaged, prepared food is sold, or where food may be prepared in the mobile unit for immediate sale by employees of the route food service. Duties include, but are not limited to, driving, food preparation, loading and unloading the vehicle, and cashiering. Typical route food services include, but are not limited to, traveling coaches that sell beverages and prepared pastries or snack items at various locations during a given work day, ice cream wagons, refrigerated trucks that sell specialty prepackaged foods to route customers, or mobile "short-order" food services that sell fast foods at special events or at locations where hot food may not be available.

This classification excludes food preparation at a fixed location for the route food vehicles which may be reported

separately in classification 3905 or as applicable, food vendors operating from a push cart or mobile stand and food vendors who operate from a truck or van but who do not move from place to place throughout the day who are to be reported separately in classification 3905.

1101-20 Computer tape or accounting records delivery service

Applies to establishments engaged in picking up and delivering computer tape, accounting records, or similar financial records to or from storage centers to customer locations. Delivery drivers in this classification often work in metropolitan areas and drive small cars or bicycles.

1101-21 Errand service

Applies to establishments engaged in providing errand services for others. Types of errands include, but are not limited to, shopping services, delivery of food, beverages or other commodities, and delivery of body fluid samples to laboratories. Vehicles used by these services are typically small cars or bicycles. This classification also applies to the distribution of sample merchandise by vehicle.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-677 Classification 5301.

5301-10 Accounting or bookkeeping services

Applies to establishments engaged in providing general accounting or bookkeeping services to others. Types of services contemplated by establishments subject to this classification include, but are not limited to, auditing, tax preparation, medical or dental claims processing and billing, and/or advisory services. This classification includes all employments such as, but not limited to, clerical office, outside sales, and personnel who travel from one office to another.

This classification excludes establishments engaged primarily in management consultant services that are not otherwise classified, which are to be reported separately in classification 5301-12.

Special note: This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

5301-11 Law firms

Applies to establishments engaged in providing legal services to others. Law firms may specialize in one or more areas of law. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

Special note: This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

5301-12 Management consultant services, N.O.C.

Applies to establishments engaged in providing management consulting services not covered by another classification (N.O.C.). Management consultants typically will observe and analyze organizational structures, work processes or work flows, mail distribution, computer or communication systems, and planning or development of related business needs. After a thorough analysis, consultants usually prepare a written report for the customer which identifies problem areas and/or recommends improvements to processes or equipment. Consultants may remain to oversee the implementation of the recommended improvements. Consultants subject to this classification do not sell any product they have recommended although they may act as an agent for their client in purchasing the product. Consulting projects vary from client to client depending upon the contract. Included within this classification are businesses that provide similar consultative services such as, but not limited to, advertising agencies, employer representative organizations, public relations companies, mortgage brokers and financial advisers who do not make purchases on behalf of their clients. This classification includes clerical office staff, outside sales personnel and other staff who travel from one office to another.

Special note: This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

5301-13 Credit bureaus; collection agencies

Applies to establishments that are licensed to provide collection and/or credit investigation services to others. Services include, but are not limited to, the collection of NSF checks or delinquent debts owed to clients of the collection agency and checking the credit backgrounds of their client's potential customers. If debts are not collected, the service agency may initiate legal proceedings against the debtor. This classification includes clerical office and outside sales personnel, other staff who travel from one office to another, and process servers, although collection agencies subject to this classification generally employ process servers of other businesses to deliver legal documents.

This classification excludes establishments engaged in providing process serving services which may be reported separately in classification 6303 provided all the conditions of the general reporting rules covering standard exception employees have been met.

5301-14 Employment agencies

Applies to establishments that are licensed to provide employment services for others. Clients of employment agencies may be persons seeking employment or companies looking for employees. Employment agencies usually conduct preliminary interviews with candidates for positions prior to referring them to their client companies for interviews. Generally, establishments subject to this classification place people in permanent positions. This classification

includes clerical office and outside sales personnel, and staff who travel from one office to another.

This classification excludes employees of a temporary help agency who are assigned to work in the administrative or branch offices of the agency who are to be reported separately in classification 7104 and employees of a temporary help agency who are assigned on a temporary basis to its customers who are to be reported separately in the appropriate temporary help classification.

5301-15 Court reporting services

Applies to establishments engaged in providing court reporting services to others. Court reporters record verbatim testimony presented in court proceedings, depositions, public hearings or meetings. The most frequently used method to record testimony is by stenotype machine, although it may be recorded by voice recording on audio tape, or by manual shorthand. Transcription of the recorded material may be performed by the court reporter or by "note readers" or typists. The majority of court reporters today use computer-aided transcription systems. Court reporters may also offer notary public services for their clients. This classification includes clerical office and staff who travel from one office to another.

5301-16 Service and professional organizations

Applies to establishments engaged in protecting or furthering the interest of their members and/or the general public. Many of these operate as nonprofit organizations. Service and professional organizations may perform one or many of the following activities: Maintain a membership directory; collect membership dues; publish a newsletter; sponsor educational training programs; administer certification tests; provide job placement assistance; award scholarships; offer insurance programs; research and interpret local, state, and federal regulations and apprise members of the results; manage promotional marketing programs; organize fund raising campaigns; perform charitable community services; sponsor athletic leagues and tournaments; host conventions; disburse funds; perform collective bargaining; arbitrate disputes; provide counseling, adoption, and advocacy services; lobby the legislature; compile, review, and disseminate informational data; operate a tourist information center; issue vehicle license registrations, plates, decals, and certificates of title. Also included in this classification are Economic Development Councils, Boards, or Associations. These nonprofit organizations provide economic consulting services and related statistics to government and industry in the promotion of economic stability, and recruit businesses who will create jobs and provide loans from the grant funds they manage. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

This classification excludes labor unions and employee representative associations which are to be reported separately in classification 6503, and the collection of donated items by truck which is to be reported separately in classification 1101.

Special note: If a charitable organization subject to classification 5301 operates a retail store for the sale of donated items, the collection of those items by truck, and all store operations, are to be reported separately in classification 6504.

5301-18 Telephone answering services

Applies to establishments engaged in providing telephone answering services for others. Customers include, but are not limited to, medical professionals, attorneys, private businesses, and individuals. Most answering services today use computerized communications systems to identify company names when answering calls for various companies, obtain correct information about the company to respond to questions, record and relay accurate messages in a timely manner. Related services often offered by telephone answering service companies include, but are not limited to, voice mail or paging, rental of office space, telemarketing, dispatching, monitoring alarm systems, placing reminder calls, and scheduling appointments for customers. This classification includes clerical office personnel and staff who travel from one office to another.

5301-19 Travel agencies

Applies to establishments engaged in providing travel arrangement services for others. Travel agencies coordinate all types of travel arrangements for their clients through air, cruise, train, or bus lines, hotels, motels, or resorts, car rental agencies, travel insurance companies, and related travel providers. Services vary and could include delivery of tickets and itineraries to clients, booking reservations and selling tickets for tours, excursions, or other entertainment events, or arrangement of special needs for disabled or elderly travelers. This classification includes clerical office and sales staff who travel from one office to another.

5301-21 Word processing or secretarial services

Applies to establishments engaged in providing word processing or secretarial services to others. Services include, but are not limited to, desktop publishing, dictation and transcription services, typing/compiling reports, proposals, resumes, or correspondence, sending faxes, and making copies of documents. A pickup and delivery service may be offered. This classification includes clerical office and outside sales personnel who travel from one office environment to another.

Special note: This classification is limited to employers engaged in such services being provided to the general public. This is a services only classification and does not include retailing or store operations, nor is this classification to be assigned to employers setting up separate business operations to manage other commonly owned or operated business undertakings unless coincidentally the other operations are also subject to this classification.

AMENDATORY SECTION (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

WAC 296-17-694 Classification 6208.

6208-00 Amusement parks; exhibition caves or caverns

Applies to establishments engaged in providing amusement parks to the public or in the operation of cave or caverns for exhibition purposes. Establishments subject to this classification are located on a permanent site and usually offer a variety of activities such as, but not limited to, amusement rides, water slides, miniature golf, and games such as tossing rings, throwing balls, and shooting air rifles. There may be

one or more separate arcade areas located within the park. This classification includes rides, ticket sellers, gate attendants, food and beverage operations, care, custody and maintenance of the above facilities and operations similar to a traveling carnival.

This classification excludes set up, tear down and delivery of amusement park rides, games and food booths which are to be reported separately in classification 6207.

6208-01 Ranges: Archery, ball, dart, golf, firearms shooting

Applies to establishments engaged in operating indoor or outdoor archery, ball, dart, golf, and firearms shooting ranges. Golf driving ranges subject to this classification are operated separately from a golf course. If the driving range is operated in conjunction with a golf course, then the entire establishment is to be reported separately in classification 6206. Ball ranges (batting cages) are establishments set up to provide batting practice. Archery ranges are permanent establishments that provide targets for practice. If these operations are conducted in conjunction with an amusement park, then the entire operation is to be reported separately in classification 6208-00. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes miniature golf courses which are to be reported separately in classification 6208-07, and ranges that use air rifles which are to be reported separately in classification 6208-10.

6208-03 Boat rental facilities

Applies to establishments engaged in renting row boats, paddle boats, rubber rafts or similar water craft for recreational purposes when the water is part of a park. This classification includes the operation of bumper boat amusement rides if that is the sole function of the establishment. If the bumper boats are operated as part of an amusement park, the entire establishment is to be reported separately in classification 6208-00. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

6208-04 Fairs, shows and exhibitions, N.O.C.

Applies to establishments or community organizations engaged in managing, sponsoring and conducting fairs, shows and exhibitions not covered by another classification (N.O.C.). ~~((These are usually annual events sponsored by a town or community.))~~ Events may include, but not be limited to, community fairs, animal (pet or livestock), flower, art, and trade shows. Many of the exhibitors and concessionaires are independent businesses that rent space at the ~~((fair))~~ site. Work contemplated by this classification includes ~~((ticket sellers)), but is not limited to, coordinating exhibitors, arranging for a facility and utilities, selling tickets, judging entries, security personnel, helping to set up and tear down booths, the showing of animals in an arena,~~ food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes all raising or care of animals which are to be reported separately in the applicable classifications.

~~((6208-05 Shows—animal~~

~~Applies to establishments engaged in managing, sponsoring and conducting animal shows such as pet or livestock exhibitions. Employments contemplated by this classification include, but are not limited to, ticket sellers, judges, security personnel, and the showing of the animals in the arena when performed by employees of employers subject to this classification. This classification includes food and beverage operations and care, custody and maintenance of the above facilities.~~

~~This classification excludes all raising or care of animals which are to be reported separately in the applicable classification.~~

6208-06 Shows—flower, art

Applies to establishments engaged in managing and conducting art or flower shows. The sponsors are usually responsible for the set up and tear down of the exhibition. The exhibitors and concessionaires are usually independent booth renters. ~~Work contemplated by this classification includes, but is not limited to, coordinating exhibitors, arranging for a facility and utilities, permits or related needs, helping set up/tear down booths, judging, and security personnel. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.))~~

6208-07 Miniature golf courses

Applies to establishments engaged in the operation of miniature golf courses. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes miniature golf courses operated in conjunction with an amusement park which are to be reported separately in classification 6208-00.

6208-08 Kiddie rides at permanent locations

Applies to establishments engaged in operating kiddie rides at a permanent location. Ride attendants duties include, but are not limited to, selling tickets, directing patrons getting on and off the rides, keeping order among the patrons waiting to ride, and making sure all belts and safety devices are in the proper place and functioning. This classification includes food and beverage operations and care, custody and maintenance of the above facilities.

6208-09 Race tracks

Applies to establishments engaged in the operation of race tracks such as, but not limited to, stock car, go cart, motorcycle, horse, and drag racing tracks. Employments contemplated by this classification include, but are not limited to, selling tickets, booking events, coordinating participants, and security. This classification includes food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes parimutuel clerks at a horse racing track and cashiers with no other duties 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 the handling of horses or vehicles which is to be reported separately in the classification applicable to the work being performed.

6208-10 Shooting galleries for air rifles only; laser tag, war games, paint ball facilities

Applies to establishments engaged in operating shooting galleries for *air rifles only*. If the air rifle shooting gallery is operated in conjunction with an amusement park, the entire operation is to be reported separately in classification 6208-00. This classification also applies to laser tag, war games, and paint ball facilities. This classification includes ticket sellers, food and beverage operations and care, custody and maintenance of the above facilities.

This classification excludes operations involving any firearms such as, but not limited to, pistol or rifle ranges, which are to be reported separately in classification 6208-01.

6208-11 Carnival operations, N.O.C.

Applies to those employees of an employer engaged in operating carnivals who are not covered by another classification (N.O.C.). These employees are generally employed as ride operators, game attendants, ticket sellers/takers, and traveling clerical workers. This classification includes operations care, custody and maintenance of the above facilities.

This classification excludes clerical office employees who are assigned to a permanent office location with no outside duties, who may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met; employees engaged in driving and/or set up and tear down of all mechanical and nonmechanical rides, concession booths or stands, mobile offices, aid rooms, ticket booths, and all other temporary structures associated with a traveling carnival who are to be reported separately in classification 6207; employees of carnival operations assigned to work in food booths who are to be reported separately in classification 3905; and employees of carnival operations assigned to work in souvenir or gift shops who may be reported separately in classification 6406 provided they have no other duties.

Special note: Permanent shop employees, and those employees assigned to the shop during the winter quartering period, may be reported separately in classification 5206 provided the conditions set forth in WAC 296-17-675 have been met.

AMENDATORY SECTION (Amending WSR 05-23-161, filed 11/22/05, effective 1/1/06)

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 or home care assistance establishments who provide ~~((care for))~~ assessments of patients or handicapped individuals. Duties of these employees include ~~((teaching))~~ assessing the needs of aging or 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))~~ prior to implementing a plan of care. 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 and do not provide direct care.

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 or home care assistants 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 99-18-068, filed 8/31/99, effective 10/1/99)

WAC 296-17-704 Classification 6309.

6309-02 Stores: Gun - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of hand guns and rifles. Gun stores subject to this classification will routinely sell related goods such as, but not limited to, knives, archery supplies, ammunition, cleaning kits, targets, target launchers, ammunition belts and specialty clothing. It is common for gun stores to repair guns for their customers. This generally consists of replacing worn or malfunctioning parts that they have in inventory, or that are special ordered from the manufacturer. Gun stores are not generally involved in machining operations although some light machine work is contemplated by this classification. Gun stores in this classification can also make custom ordered guns. This term may be misleading in that a custom gun made by a gun store is simply the assembly of various components to produce the desired gun. Depending on the size and location of the store a related shooting range may be found on the premise. Whether the shooting range is operated in connection with the store operation or by an independent business unrelated to the gun store, it is to be reported separately in classification 6208. Establishments in classification 6309-02 are distinguishable from operations covered in classification 3402, in that gun stores subject to classification 6309 are not engaged in the manufacture of guns, which includes such operations as machining barrels, fabricating triggers, springs, bolts, levers, clips and handles, or in the mass assembly of gun components into finished goods.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-03 Stores: Bicycle - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of all types of bicycles. Bicycle stores subject to this classification will sell related goods such as, but not limited to, helmets, pumps, carrier racks, water bottles, shoes, trailers, child carriers, and specialty clothing. It is common for bicycle stores to assemble new bicycles as well as tune and repair bicycles for their customers. This generally consists of replacing worn or malfunctioning parts that they have in inventory or that are special ordered from the manufacturer. Bicycle stores subject to this classification will occasionally make a custom bicycle. This term may be misleading in that a custom bicycle may be nothing more than the assembly of various components to produce the desired bicycle, or it could be the actual cutting, bending, and welding of tube metal, or the cutting, rolling and heating of graphite reinforced plastic material. *Only* those custom bicycles that are

assembled from components *manufactured by others* are to be reported in classification 6309 and *only* if such custom work is incidental to the primary sales of off-the-rack bicycles manufactured by others.

This classification excludes machining operations, frame welding, and establishments engaged in custom manufacturing or mass producing bicycles from nonfinished goods which are to be reported separately in the classification applicable to the bicycle frame material and process used to manufacture the finished units.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-06 Stores: Garden supply - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of homeowner type yard and garden tools, equipment, and supplies. Establishments subject to this classification will carry in their inventory and have available for immediate sale various garden tools and gloves, equipment, and supplies such as, but not limited to, rakes, shovels, post hole diggers (nonpower), hoes, wheel barrows, garden carts, edgers, weed wackers, lawn sprinklers, garden hose, lawn mowers, and chain saws. On a seasonal basis these establishments will routinely stock bags of various types of lawn, shrub and plant fertilizer, lawn seed, bags of potting soil, bags of beauty bark, flower bulbs, vegetable and flower seeds, and some bedding plants and small shrubs. This classification is distinguishable from nurseries in that nurseries sell plants, shrubs and trees that they have purchased from others or raised from seeds or cuttings, most of which are available for sale all year round. Nurseries typically sell soils and bark in bulk, but seldom sell lawn mowers, lawn tractors, edgers and similar items. Nurseries are further distinguishable from garden supply stores in that garden supply stores have a limited outside yard and are primarily composed of a store operation. Nurseries, on the other hand, have limited store operations and extensive yards where plants, shrubs, and trees are displayed and cared for, as well as extensive greenhouse operations. This classification also includes merchants who are engaged in the sale and/or hand packaging of agricultural seeds that have been processed by others.

This classification excludes the repair of tools and equipment sold which is to be reported separately in the classification applicable to the work being performed.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-07 Locksmiths

Applies to establishments engaged in servicing or repairing locksets. Establishments subject to this classification will have a small retail store where they sell new door locksets, repair customer locksets, rekey locksets, make duplicate keys, and sell home security items such as safes and alarm systems. In addition to store operations, this classification includes locksmith field work such as unlocking a car, removing a broken key from an ignition or door, and installing a replacement lockset in a door.

This classification excludes the installation of safes, new locksets, or dead bolt locks which is to be reported separately in classification 0607 and the installation of home security systems which is to be reported separately in classification 0608.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-08 Stores: Automobile, truck, motorcycle, or aircraft accessories or replacement parts - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of automobile, truck, motorcycle, or aircraft accessories or replacement parts. Most establishments subject to this classification carry a full line of parts ranging from batteries, wiper blades, ignition components, to engines, tires, and transmissions. However, this classification also applies to establishments that sell specialized product lines such as, but not limited to, batteries, electrical systems, or transmission parts. This classification covers only the store operation. Any vehicle, tire, or machine shop service is to be reported separately in the applicable repair or service classification. Care should be exercised when considering the assignment of this classification to an establishment engaged in vehicle service or repair as parts departments may be included in the service or repair classification. *Only* those vehicle service or repair establishments that have "full line" replacement parts stores are to be assigned to this classification and *only* when the classification that governs the repair or service permits, the parts department to be reported separately.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-09 Stores: Architectural and surveyor supplies - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of professional and technical measurement equipment used primarily by architects and surveyors. Products sold by establishments subject to this classification include, but are not limited to, plan holders, plotters, lettering systems, engineering software, CAD supplies, copiers and computer paper and films. This classification includes the *in-shop* servicing or repair of products sold, such as replacing or adjusting parts.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-11 Stores: Stained art glass - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of stained art glass supplies. Operations contemplated by this classification include the receipt of merchandise purchased from unrelated businesses, dealers, or manufacturers, warehousing, stocking of shelves, cashiering, offering craft classes to customers, and delivery of merchandise to customers. Items sold by establishments subject to this classification include, but are not limited to, lead and

leaded glass, crafts, light fixtures, terrarium parts, lamp shade parts, kits for picture frames, mirrors, books on stained glass, small grinders, glass cutters and other tools for making stained glass items.

This classification excludes the manufacture of stained glass and the fabrication and assembly of stained art goods which is to be reported separately in classification 3503 and stores that sell craft-making goods or hobby supplies which are to be reported separately in classification 6309-21.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-12 Stores: Wood stove and accessories - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of wood stoves, pellet stoves, fireplace inserts, and accessories. The majority of stoves today are produced from cast iron or steel plate and may be finished with enamel or paint. Stove stores subject to this classification will sell related accessories such as, but not limited to, noncombustible hearths and irons, wood holders, pellet scoops, stovepipes, metal chimneys, decorative brass legs and brass handles and bags of pellets. Some wood stove dealers may sell both stoves and spas as their main product lines. Stores that sell both are to be reported separately in classification 6309-14. This classification includes the set-up of wood stoves and heaters which can be operated as part of a display area or showroom in the store when performed by employees of this business.

This classification excludes the installation and repair of wood stoves, furnaces, air conditioning units and vacuum cleaner systems which is to be reported separately in classification 0307; masonry work which is to be reported separately in classification 0302; and chimney cleaning which is to be reported separately in classification 4910.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-13 Stores: Hardware variety, N.O.C., specialty hardware or marine hardware - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of hardware related items. Operations contemplated by this classification include the receipt of merchandise purchased from unrelated business dealers or manufacturers, warehousing of inventory, stocking of shelves, cashiering, customer load out, assistance and delivery. Establishments subject to this classification cater to homeowners and, therefore, do not carry contractor quantities of products for sale. Hardware variety stores applicable to this classification are generally small retail stores (3,000 square feet or less). Hardware variety stores will have a wide assortment of products for sale ranging from paint and painting supplies, electrical and plumbing supplies, to hand or power tools, garden supplies, housewares, and hardware. For purposes of this classification the term "hardware" applies to nails, screws, bolts, hinges, staples, chain, and similar items. Classification 6309-13 is distinguishable from classification

2009 in that the quantity of products sold by hardware variety stores subject to classification 6309-13 is limited to homeowner quantities, the selection of product is limited, and they carry only a limited selection of lumber, if at all. Hardware variety stores may also carry seasonal plants. This classification also applies to specialty hardware or marine hardware stores.

This classification excludes hardware stores that sell lumber or building materials which are to be reported separately in classification 2009.

Special notes: Care should be exercised when assigning classification 6309-13 to a business. All other store and nursery classifications are to be considered before this classification is assigned. It is common for a nursery to have a substantial inventory of hardware and tools, just as it is common for farm supply stores to sell similar products, yet these types of businesses are covered in alternative classifications.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-14 Stores: Hot tub or spa - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of hot tubs and spas. Most dealers subject to this classification have small store operations where a limited supply of spas and hot tubs are displayed. Some may have distribution centers where spas are shipped from the manufacturer and stored until delivered to a showroom or directly to a customer. The majority of spa units are portable and self-contained, which means the plumbing, pump, wiring, and controls are already in place and enclosed in the siding surrounding the tub. They are ready to use once the electricity is hooked up at the customer's site. The other type of spas are referred to as "shells," which are usually set in place in the ground, then the pump, plumbing, electrical wiring, and any surrounding rockery or structures built around it. Stores that sell spas and hot tubs also stock related items such as, but not limited to, spa or swimming pool chemicals and cleaners, brushes, replacement pumps and parts, filters, and spa accessories such as fragrances. Some may also sell other product lines such as swimming pool shells, wood or pellet stoves and related items such as, but not limited to, lawn furniture, barbecues, or water sports equipment. Operations contemplated by this classification include the receipt of tubs, spas, pools, pool liners, chemicals and other products from manufacturers or unrelated companies, stocking shelves, setting up displays, cashiering, delivery of products to customer locations, instruction on testing and maintaining pool waters, and incidental pump repair in the store; it does not contemplate the repair or service of pumps or pools at customer's location. Establishments that sell both wood stoves and spas are to be reported in this classification. This classification also applies to establishments that rent hot tubs and deliver them to, and pick them up from, the customer's location.

This classification excludes establishments that sell only accessories for tubs or pools which are to be reported separately in classification 6406; establishments engaged in the sale of wood or pellet stoves, but do not sell spas, which are to be reported separately in classification 6309-12; and establishments engaged in the manufacture or installation of hot

tubs which are to be reported separately in the classification applicable to the work being performed.

Special notes: Spa and hot tub dealers may be licensed contractors who build swimming or wading pools, in addition to the spas and hot tubs sold. Except for the in-store pump repair, all other electrical or plumbing installation or repair work, pump repair, landscaping, building of structures, pouring of concrete, and servicing of the pool waters are excluded from this classification and are to be reported separately in the classification applicable to the work being performed.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-15 Stores: Floor covering - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of floor coverings. Establishments subject to this classification sell a variety of floor coverings and related items such as, but not limited to, sheet vinyl, floor tile, ceramic wall or countertop tile, wood parquet, floor or area rugs, carpeting, window coverings, bathroom and kitchen accessories, and supplies to install products. Other stores may specialize in only one or a few of these products. Floor covering stores generally consist of a store operation where samples of all product types are displayed. Merchandise is usually ordered from the factory or distributor per customer specifications; however some goods are kept in stock and are available for immediate sale. Operations contemplated by this classification include the receipt of merchandise purchased from unrelated businesses and manufacturers, stocking shelves, cashiering, estimating floor covering needs from plans, blue prints and customer measurements, ordering special floor coverings from distributors or manufacturers, and delivering the product to customers.

This classification excludes all installation work and the manufacture of any product sold by floor covering stores, which is to be reported separately in the applicable construction, installation, or manufacturing classification.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-16 Pawn shops

Applies to establishments engaged in loaning money to others in exchange for collateral of new or used merchandise such as, but not limited to, jewelry, video equipment, and computers. It is common for pawn shops to sell new and used merchandise they have taken as collateral for defaulted loans. Operations contemplated by this classification include receiving merchandise from others, stocking of shelves, and cashiering.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-17 Stores: Sporting goods - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of a variety of sporting goods. Operations contemplated by this classification include the receipt of merchan-

dise purchased from other unrelated businesses, dealers, or manufacturers, warehousing, stocking of shelves, cashiering, and delivery. For purposes of this classification the term "sporting goods" includes, but is not limited to, baseball gloves, bats, balls, fishing poles, tackle, reels, tennis racquets, bicycle helmets, exercise equipment, and specialty clothing and shoes. A store may carry equipment and related items for a number of sports, or specialize in a particular sport such as skiing or fishing.

This classification excludes *stores that specialize in selling bicycles* and related items such as tire pumps, water bottles, locks, shoes and clothing, which are to be reported separately in classification 6309-03, *and stores that specialize in selling guns* and related items such as ammunition, hunting supplies, archery equipment, targets, knives, and clothing which are to be reported separately in classification 6309-02.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-18 Stores: Paint and wallpaper - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of paint and wallpaper supplies. Operations contemplated by this classification include the receipt of merchandise purchased from other unrelated businesses, dealers, or manufacturers, mixing paints and stains, warehousing, stocking of shelves, cashiering, and delivery of merchandise to customers. Establishments subject to this classification routinely offer pressure washer and spray units, and ladders for rent or sale which is included in this classification when such sales and rentals are conducted in connection with a paint and wallpaper store. This classification excludes establishments engaged in the rental of spray paint and pressure washer units which are to be reported separately in classification 1106.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-19 Stores: Sewing machines or vacuum cleaners - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of new or reconditioned sewing machines or vacuum cleaners. Operations contemplated by this classification include the receipt of merchandise purchased from other unrelated businesses, dealers, or manufacturers, warehousing, stocking of shelves, cashiering, demonstrating ((~~or delivering~~)) merchandise ((~~to customers~~)), providing instructions or sewing classes to customers, and in-store repair. This classification includes delivery of merchandise to customers and door-to-door sales personnel employed by the store. Sewing machine repair is generally limited and consists mainly of adjusting thread and stitch tensioners, aligning components (needle and foot), replacing electrical motor, lights and belts. Types of sewing machines include sergers, button holers, embroidery machines, and commercial machines such as those used by a tailor or an upholstery shop, but does not include industrial machines such as those used in feed and carpet mills.

This classification excludes fabric stores that may also sell sewing machines which are to be reported separately in classification 6406; and establishments engaged in the repair of industrial sewing machines which are to be reported separately in classification 3402 for shop operations and classification 0603 for field repairs. This classification excludes firms who employ only door-to-door sales personnel in this state which are to be reported in classification 6309-22.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-20 Stores: Custom framed art or U-frame - wholesale or retail; Art galleries

Applies to establishments engaged in the wholesale or retail sale of custom framed art such as, but not limited to, posters and pictures. Operations contemplated by this classification include the receipt of merchandise purchased from other unrelated businesses, dealers, or manufacturers, warehousing, stocking of shelves, cashiering, cutting matte board, glass and frame material, assembling frames, mounting art, posters or pictures into custom made or premade frames and delivery of merchandise to customers. Custom frame manufacturing covered by this classification is distinguishable from other frame manufacturing covered in classifications 3404, 2909, and 3512 in that custom frame making contemplated in classification 6309-20 consists of cutting frame material purchased from others with a specialized saw and fastening the pieces together with a small air nailer or finish screws. Frame manufacturing operations in other classifications consist of extruding metal or plastic through dies to produce the desired frame material, or planing and molding the dimensional lumber to the desired appearance, cutting material in mass quantities, fastening frames together (mass production oriented) and boxing for shipment. U-frame operations consist of selling the various components such as, but not limited to, premade frames or precut unassembled frame kits, matte board, glass and prints to customers for customer assembly. This classification also includes establishments that operate art galleries, as the framing activities are similar.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-21 Stores: Hobby and craft - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of hobby and craft supplies. Operations contemplated by this classification include the receipt of merchandise purchased from other unrelated businesses, dealers, or manufacturers, warehousing, stocking of shelves, cashiering, offering craft classes to customers, and delivery of merchandise to customers. Items sold by establishments subject to this classification include, but are not limited to, floral arrangement supplies, pottery supplies, art glass supplies, doll making supplies, jewelry components such as beads and wire, and artist supplies. It is common for establishments subject to this classification to also be involved in custom picture framing in connection with hobby or craft store operation.

This classification excludes the manufacture of hobby and craft goods which is to be reported separately in the classification applicable to the materials and processes and stores that specialize in the sale of stained art goods which are to be reported separately in classification 6309-11.

Special note: Clerical office and outside sales employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

6309-22 Sales personnel: Door-to-door

Applies to sales personnel engaged in door-to-door sales of merchandise. Typically these sales are done in the homes of the customer, often by individual appointment or at a party given by the host in the home. Types of merchandise include, but are not limited to, coffee, tea, or other grocery items, mops, brushes, carpets or other household furnishings, candles, vacuum cleaners, books and magazines. Duties contemplated by this classification include showing samples or brochures describing items for sale, demonstrating merchandise, completing paperwork for orders, and driving. Sales persons usually have the products shipped directly from a distributor to the consumer. This classification also contemplates door-to-door sales employees who may deliver the sold products or who sell directly from stock kept in their vehicle. Door-to-door sales personnel are considered workers of the company employing them unless they meet the criteria as specified in RCW 51.08.195.

This classification excludes establishments engaged in motor route distribution of telephone books, periodicals, or newspapers which are to be reported separately in classification 1101-14.

Special note: Clerical and office employees may be reported separately provided all the conditions of the general reporting rules covering standard exception employees have been met.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-715 Classification 6502.

6502-00 Banks; credit unions; savings and loan associations

Applies to establishments engaged in providing banking and related financial services. Services include, but are not limited to, establishing and servicing checking and savings accounts, telephone, computer and in-person fund transfers, lending, vending certificates of deposit and savings bonds, providing financial consulting services and estate planning, and providing supplemental services such as automatic teller machines (ATMs) and credit cards, currency exchange, cashier and travelers checks, notary public services, and safe deposit box rentals. This classification includes clerical office and sales personnel.

This classification excludes establishments engaged in providing armored car or on-premises security which are to be reported separately in the applicable services classification.

6502-05 Mortgage companies; financial or investment companies, N.O.C.

Applies to establishments engaged in providing financial or investment services not covered by another classification (N.O.C.). This classification also applies to establishments engaged in extending credit in the form of mortgage loans by originating mortgage or real estate construction loans, selling mortgage loans to permanent investors, and servicing the loans, and to establishments that offer check cashing services. This classification includes clerical office and sales personnel and staff inspectors who authorize release of funds on construction loans.

This classification excludes mortgage brokers who are to be reported separately in classification ~~(s 4904 and 6303)~~ 5301. Mortgage brokers ~~((do not originate loans, but))~~ provide the service of finding lenders for people who need loans.

6502-06 Stock brokers

Applies to establishments engaged in brokering stocks and other related securities. Establishments subject to this classification act as agents in the buying, selling, or exchanging of securities such as, but not limited to, stocks, mutual funds, annuities, bonds and commodity contracts for their clients. Their "full-service" usually extends to financial planning advice, arranging for IRA and KEOGH accounts, money market accounts, tax free bonds, and related financial investments. This classification also includes "investment bankers" who are primarily engaged in originating, underwriting, and distributing securities, buying and selling commodity contracts for their own account or for the account of others, and buying, selling, or trading in stocks, stocks options, bonds, or commodity contracts. This classification includes clerical office and sales personnel.

6502-07 Escrow companies

Applies to establishments engaged in providing escrow and/or title search services to the general public. They may be known either as "escrow companies" or "title companies." An escrow company is a third party who holds in custody a written agreement such as a deed or bond (escrow) which does not become effective until certain conditions are fulfilled by the grantee. Title companies conduct title searches to ensure there are no liens against property; if there are no liens, they issue a title insurance policy; if there are liens they make them known to potential buyers. Establishments subject to this classification typically provide both escrow and title search services which include the issuance of title insurance, collection and disbursement of funds for which they are custodians, providing closing of documents for the purchase of real estate, and preparing and filing the documents at the appropriate municipal offices. This classification includes clerical office and sales personnel.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-777 Classification 7307.

7307-00 Farms: Christmas tree

Applies to establishments engaged in operating Christmas tree farms. Work contemplated by this classification includes, but is not limited to, preparing soil for new trees,

planting trees, fertilizing, spraying, fumigating, weeding, pruning, harvesting, baling, packing, delivering trees, and maintaining or installing sprinkler or irrigation systems when performed by employees of an employer subject to this classification. This classification also applies to wholesale Christmas tree operations. Retail tree sales conducted at a farm location, as in the case of a U-cut tree operation, or at a seasonal sales lot away from the farm *may* be reported separately provided the conditions in classification 4805-09 have been met.

This classification excludes contractors engaged exclusively in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301 and contractors hired by a farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special notes: Establishments assigned to 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. Special care should be exercised when assigning this classification as work covered by classification 5004 is similar in nature.

The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as planting trees, pruning, or harvesting. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

7307-01 Tree farms, N.O.C.

~~(((to be assigned only by classification services staff)))~~

Applies to establishments engaged in operating tree farms not covered by another classification, (N.O.C.) such as, but not limited to, cottonwood tree farms. Operations contemplated by this classification include, but are not limited to, preparing soil for new trees, planting trees, fertilizing, spraying, fumigating, weeding, pruning trees, and maintaining or installing sprinkler systems when performed by employees of an employer subject to this classification.

This classification excludes harvesting of trees which is to be reported separately in the appropriated logging classification based on the method of harvest; contractors engaged in the installation of sprinkler or irrigation systems who are to be reported separately in classification 0301; and contractors hired by a tree farm operator to build or repair fences or structures who are to be reported separately in the appropriate construction classification applicable to the work being performed.

Special note: The term "farm labor contractor" applies to specialty contractors who supply laborers to a farm operation for specified services such as planting trees, pruning, or harvesting. Generally the work involves manual labor tasks as opposed to machine operations. Farm labor contractors will be reported in the classification applicable to the farm

with which they are contracting. Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "custom farm services" as the process involved in operating machinery is the same irrespective of the type of farm they are providing service to or the type of crop involved.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-697 Classification 6302.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-651 Classification 4902.

4902-00 State government(~~(--)~~) clerical and administrative(~~(--clerical, and sales)~~) office personnel

Applies to (~~(those)~~) state employees who are assigned to work in an office environment in a clerical or administrative capacity, ((a clerical office, or in public relations or sales work)) with no field duties. (~~((For the purposes of this classification, field exposure is to the normal travel to a work assignment such as a field auditor or social worker would encounter. This classification includes all departments, agencies, boards, commissions, committees and elected officials of all branches of state government.~~

~~This classification excludes employees with field exposure other than that described above, employees with law enforcement powers, and employees who provide patient health care.~~

See classifications 4906, 5307, 7103, and 7201 for other state government activities.) The work performed in this classification normally includes working with telephones, correspondence, creating financial, employment, personnel or payroll records, research, composing informational material at a computer, creating or maintaining computer software, or library work, but may include other administrative work performed in an office location. For the purpose of this classification, employees reported in 4902 would have no field work or routine travel outside of the office, other than occasional errands, a trip to the bank or post office, attendance at training, meetings or a conference in support of their normal duties. This classification may include, but is not limited to, jobs such as office support, secretary, administrative assistant, customer service representative, accountant, fiscal analyst, information systems, when normal job duties do not require travel and are completed in an office environment.

This classification excludes: Employees whose duties include field exposure, employees who may be called upon to restrain individuals or participate in recreational activities in state hospitals, schools, homes, detention or correctional facilities, who are to be reported separately in the appropriate classification (5307, 7103, or 7201); administrative field employees who are to be reported separately in risk classification 5300; law enforcement officers in any capacity who are to be reported separately in risk classification 7103; or

employees who provide patient or health care and work in state hospitals, homes, schools, detention or correctional facilities who are to be reported separately in risk classification 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

Special notes: A division of hours is not permitted between classification 4902 and any other classification. For purposes of this classification the term((*) "clerical and administrative office("and "sales)) personnel" shall have the same meaning as "clerical office employees" defined in the standard exception provision of the general reporting rule.

NEW SECTION

WAC 296-17-67603 Classification 5300.

5300-00 State government - administrative field personnel

Applies to state employees whose duties require them to travel to an alternative work location but their work assignment is administrative in nature. Workers reported in this classification have duties which routinely involve travel to meetings or appointments with clients, customers, or businesses. Typical work includes, but is not limited to, field auditor, collector, social worker, attorney, public relations or consulting staff with no hazardous exposures. Supervisors who occasionally travel to accompany field staff for purposes such as observation or information gathering, but who do not typically perform any work other than administrative, are also included in this classification. Employees in this classification may also have follow-up work that is completed in the office such as writing reports, correspondence, etc.

This classification excludes employees with duties outside of the office which are more than administrative in nature such as, but not limited to, engineers, inspectors, and biologists who may have some field exposure, and are to be reported in 5307. For purposes of this classification, field exposure is defined as any work period, other than the normal travel to or from a work environment, which involves "hands on" work.

This classification excludes: Employees whose duties include field or hazardous exposure, employees who perform work with inmates, residents, patients or potentially violent persons in state hospitals, schools, homes, detention or correctional facilities which may involve security, recreation, or staff who may be called upon to restrain individuals, who are to be reported separately in the appropriate classification (5307, 7103, 7201); clerical and administrative office personnel who are to be reported separately in classification 4902; law enforcement officers in any capacity who are to be reported separately in classification 7103; and employees who provide patient or health care and work in state hospitals, homes, schools, detention or correctional facilities who are to be reported separately in classification 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

Special notes: A division of hours is not permitted between classification 5300 and any other classification.

For purposes of this classification, the term "administrative field personnel" shall have the same meaning as "sales personnel" defined in the standard exception provision of the general reporting rule.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-67901 Classification 5307.

5307-00 State government employees - N.O.C.

Applies to state government employees not covered by another classification (N.O.C. - not otherwise classified) (~~(who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, construction, or the operation of machinery or equipment. This classification includes administrative personnel such as engineers, safety inspectors, and biologists, who have field exposure, and store and stock clerks. For the purposes of this classification field exposure is defined as any exposure other than the normal travel to a work assignment, such as a field auditor or social worker would encounter. This classification includes all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.~~

See classifications 4902, 4906, 7103, and 7201 for other state government operations)). This is the basic state agency classification which covers employees who have duties that support the mission of the agency and have field or hazardous exposure. For purposes of this classification field or hazardous exposure is defined as any work which involves "hands on" work. Employees reported in this classification may have jobs that include, but are not limited to, performing manual labor or supervising a work crew performing manual labor, work in the trades, construction-type work or maintenance/repair work, operating machinery or equipment, stores/stock clerks, warehouse, supplies, deliveries, food services, facilities, recreational, or general security staff with no law enforcement duties. This classification also includes, but is not limited to, personnel such as engineers, inspectors, and biologists, who have field exposure. This classification includes supervisors who work at a field site and routinely perform supervision duties in the field. This classification includes nonpatient care employees in state operated homes, schools, detention or correctional facilities not described in another classification.

This classification excludes: Employees who have law enforcement power in any capacity, who are to be reported separately in classification 7103; employees who work in state hospitals, homes, schools, detention or correctional facilities who provide patient or health care, who are to be reported separately in classification 7201; administrative field employees, who are to be reported separately in classification 5300; and clerical and administrative office personnel, who are to be reported separately in classification 4902. Vol-

unteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-763 Classification 7201.

7201-00 State government - patient or health care personnel

Applies to state employees who provide any type of patient or health care at state-operated (~~((facilities or at health care facilities in state))~~) hospitals, schools, homes, camps, detention or correctional ((institutions)) facilities. All employees who have responsibility for physical or mental health care of patients in these facilities are included in this classification. Types of employment contemplated by this classification include((s)), but ((is)) are not limited to, ((trav- eling)) doctors, nurses, therapists, ((and physicians)) atten- dants, or training and counseling staff who work with patients and may be called upon to restrain or attend to patients who are potentially aggressive or violent.

This classification excludes (~~(any state employees who do not provide patient or health care who are to be reported separately in the classification applicable to work performed.~~

~~See classifications 4902, 4906, 5307, and 7103 for other state government operations)).~~ Law enforcement officers in any capacity who are to be separately reported in classifica- tion 7103; employees who work in state hospitals, schools or prisons, who do not work directly in patient care such as food service, laundry, and janitorial, who are to be separately reported in classification 5307; administrative field employ- ees who are to be separately reported in classification 5300; or clerical and administrative office personnel who are to be separately reported in classification 4902. Volunteers are to be reported in classification 6901, and law enforcement vol- unteers in classification 6906.

AMENDATORY SECTION (Amending WSR 05-23-161, filed 11/22/05, effective 1/1/06)

WAC 296-17-680 Classification 6103.

6103-01 Schools: Academic, K-12 - clerical office, sales personnel, teachers, N.O.C. and administrative employ- ees

Applies to clerical office, sales personnel and adminis- trative 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 aca- demic school facilities, K-12 (kindergarten level through grade 12) and the state schools for the blind and deaf.

This classification excludes all other types of employees in connection with the school facilities such as, but not lim- ited 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 adminis- trative employees such as deans, directors, assistant directors, receptionists, secretaries, counselors, payroll and bookkeep- ing 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 train- ing 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 lim- ited 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 sep- arately in classification 6104.

6103-03 Libraries, N.O.C. - clerical office, sales person- nel, teachers, N.O.C. and administrative employees

Applies to clerical office, sales personnel and adminis- trative employees such as librarians, assistant librarians, receptionists, secretaries, and payroll and bookkeeping per- sonnel of establishments engaged in operating library facili- ties not covered by another classification (N.O.C.). These types of facilities maintain a wide selection of reading mate- rials such as books, journals, articles, magazines, publica- tions, newspapers, and audio-visual or micrographic materi- als.

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, teach- ers, N.O.C. and administrative employees
Bell ringers

Applies to clerical office, sales personnel and adminis- trative employees such as pastors, priests, reverends, clergy- men, ushers, receptionists, secretaries, counselors, payroll and bookkeeping personnel, and instructors of establishments engaged in operating church facilities for members of a reli- gious 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 lim- ited to, custodians, maintenance personnel and grounds keep- ers, and drivers who are to be reported separately in classifi- cation 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, audio-visuals, 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, 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 05-23-161, filed 11/22/05, effective 1/1/06)

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) and the state schools for the blind and deaf. 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 dancers including 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.

WSR 06-08-091

PROPOSED RULES

CASCADIA COMMUNITY COLLEGE

[Filed April 4, 2006, 3:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-141.

Title of Rule and Other Identifying Information: New WAC 132Z-141-010 - 132Z-141-060, Use of joint Cascadia Community College and University of Washington Bothell facilities.

Hearing Location(s): Room LB1 205, Library/Media Center, Cascadia Community College/University of Washington, Bothell, Washington, on May 17, 2006, at 12:00 noon.

Date of Intended Adoption: June 8, 2006.

Submit Written Comments to: Dede Gonzales, Cascadia Community College, 18345 Campus Way N.E., Bothell, WA 98011, e-mail dgonzales@cascadia.ctc.edu, fax (425) 352-8313, by May 17, 2006.

Assistance for Persons with Disabilities: Contact Enrollment Services at (425) 352-8359, by May 5, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Cascadia Community College (CCC) and the University of Washington Bothell (UWB) share Washington state's only colocated higher education campus. The colocation agreement provides that the institutions have dedicated and joint building spaces. Cascadia Community College will govern operations of its dedicated campus facilities use under WAC 132Z-

140-050 - 132Z-140-110, use of college facilities, but there are currently no rules to govern the use of spaces shared with UWB. These new rules would allow the institutions to improve the efficiency and effectiveness of shared campus space.

Reasons Supporting Proposal: Cascadia Community College and the University of Washington are coordinating the effort to promulgate these rules jointly, under separate agency authority.

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130.

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

Name of Proponent: Cascadia Community College, public.

Name of Agency Personnel Responsible for Drafting and Enforcement: Mr. Terence Hsiao, 18345 Campus Way N.E., (425) 352-8810; and Implementation: Dr. William Christopher, 18345 Campus Way N.E., (425) 352-8810.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 132Z-141 WAC does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Chapter 132Z-141 WAC is not considered significant legislative rules by Cascadia Community College.

April 3, 2006
Dede Gonzales
Executive Assistant
to the President
Rules Coordinator

Chapter 132Z-141 WAC

USE OF JOINT CASCADIA COMMUNITY COLLEGE AND UNIVERSITY OF WASHINGTON, BOTHELL, FACILITIES

NEW SECTION

WAC 132Z-141-010 Purpose. The colocated campus of Cascadia Community College and the University of Washington, Bothell, operates joint facilities that provide benefits to each educational institution. The purpose of this chapter is to define the facilities jointly operated by the institutions and to ensure that these joint facilities are reserved primarily for activities related to the educational missions of the institutions. Further, the joint facilities may be used for a variety of activities, providing the primary function the facility or space was intended to serve is not compromised. Reasonable time, place, and manner restrictions may be placed on the use of joint facilities.

The rules set forth in this chapter have been jointly developed and agreed upon by the two institutions of higher education, and adopted and codified in separate chapters of the Washington Administrative Code by each of the institutions. Rules for the use of dedicated facilities of Cascadia Community College and the University of Washington, Bothell, are governed by chapter 132Z-140 WAC and chapter 478-136 WAC, respectively.

NEW SECTION

WAC 132Z-141-020 Definitions. (1) "College" shall mean Cascadia Community College.

(2) "Institutions" shall mean University of Washington, Bothell, and Cascadia Community College.

(3) "Joint facilities" shall mean those structures, spaces, campus grounds, and parking lots operated jointly by the institutions. Specific rules also apply to parking lots (chapters 132Z-116 and 478-117 WAC).

(4) "University" shall mean University of Washington, Bothell.

(5) "Use of facilities" includes, but is not limited to: The holding of classes, events, the posting and removal of signs, all forms of advertising, commercial and community activities, and charitable solicitation.

(6) "Wetlands" shall mean campus grounds to the east of Campus Way N.E. and east of 110th N.E. between N.E. 185th and Beardslee Blvd., and the Chase House.

NEW SECTION

WAC 132Z-141-030 Administrative authority. (1) The board of trustees for Cascadia Community College and the board of regents of the University of Washington have delegated to the president of the college and the chancellor of the university, respectively, the authority to regulate the use of facilities on the colocated campus.

(2) Under this authority, the president of the college and the chancellor of the university designate the coordination for use of joint facilities to an appointed joint committee on facility use and designate the use of the wetlands to the wetlands oversight committee. The president of the college and the chancellor of the university shall each appoint representatives to the joint committee on facility use to develop suggested event procedures. Each designee shall review the use of the facilities; establish administrative procedures governing such use that are consistent with these rules; approve or disapprove requested uses and establish policies regarding fees and rental schedules unique to joint facilities as appropriate. Additionally, the joint committee on facility use shall act as an appeals board for decisions of the wetlands oversight committee regarding wetlands use requests. Inquiries concerning the use of joint facilities may be directed to:

Cascadia Community College
Finance and Operations Office
Director of Auxiliary Services and Capital Projects
18345 Campus Way N.E.
Bothell, WA 98011
(Phone: 425-352-8269 or 425-352-8000), and

University of Washington, Bothell
Office of Administrative Services
Facilities Use Coordinator
Box 358535
18115 Campus Way N.E.
Bothell, WA 98011
(Phone: 425-352-3556 or e-mail: facuse@uwb.edu).

(3) Preliminary approval of an event by an academic or administrative unit of the college or university implies that a

responsible official has applied his or her professional judgment to the content of the program, the qualifications of the individuals conducting the event, the manner of presentation, and has concluded that the event is consistent with the teaching, research, and/or public service mission of the institutions.

(4) Final approval of a joint facilities use request by the appropriate designee on the use of joint facilities implies that the designee has reviewed the proposed event with regard to: The rules in this chapter; the direct and indirect costs to the institutions; environmental, health and safety concerns; wear and tear on the facilities; appropriateness of the event to the specific facility; and the impact of the event on the institutions, surrounding neighborhoods and the general public.

(5) The institutions will not make their joint facilities or services available to organizations that do not assure the institutions that they will comply with the terms of the Americans with Disabilities Act (ADA, 42 U.S.C. 12132, 12182) and the Rehabilitation Act of 1973 (RA, 29 U.S.C. 794). Uses must not impose restrictions nor alter facilities in a manner which would violate the ADA or RA.

(6) The institutions will not make their joint facilities or services available to organizations which do not assure the institution that they do not discriminate against any person because of race, color, religion, national origin, sex, sexual orientation, age, handicap, or status as a Vietnam era or disabled veteran, except where such organizations have been exempted from provisions of applicable state or federal laws or regulations.

(7) Individuals who violate the institutions' use of joint facilities regulations and approved users who violate the institutions' contract terms for use of joint facilities may be advised of the specific nature of the violation and individuals may be requested to leave the property or be refused future use of joint facilities. Failure to comply with a request to leave the property may subject such individuals to arrest and criminal prosecution under provisions of applicable state, county, and city laws.

NEW SECTION

WAC 132Z-141-040 Use of joint facilities. When allocating use of joint facilities, the highest priority shall be given to activities specifically related to the institutions' missions. No arrangements will be made that may interfere with or operate to the detriment of the institutions' own instruction, research, public assembly, and student activities. In particular, joint facilities are used primarily for:

(1) The regularly established instruction, research, public assembly, and student activities of the institutions and their departments.

(2) Cultural, educational, or recreational activities of the students, faculty, or staff of the college or university.

(3) Short courses, conferences, seminars, or similar events, when arranged under the sponsorship of the institutions or their departments.

(4) Public events of a cultural or professional nature brought to the campus at the request of institution departments or committees or institutionally sanctioned student

organizations and presented with their active sponsorship and active participation.

(5) Activities or programs sponsored by other educational institutions, by state or federal agencies, by charitable agencies or civic or community organizations whose activities are of widespread public service and of a character appropriate to the institutions. However, joint facilities will not be made available for instructional or related purposes that compete with courses or programs offered by the institutions.

(6) Faculty, staff, registered or official student organizations of the institutions may use joint facilities to hold events for college or university faculty, staff and students provided such uses comply with these rules on use of joint facilities. These events do not, however, require either preliminary approval by an academic or administrative unit or final approval by the joint committee on facility use.

(7) Faculty, staff, registered or official student organizations of the institutions may use joint facilities to hold events to which the general public is invited when the event has preliminary approval by an academic or administrative unit of one of the institutions and final approval of the appropriate designee. The appearance of an invited speaker on campus does not represent an endorsement by the institutions of the speaker's views.

(8) Noninstitution organizations and individuals may use joint facilities to hold events which have received preliminary approval by an academic or administrative unit of one of the institutions and final approval of the appropriate designee. The general public may be invited to such events.

(9) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and proper maintenance of the facilities. Subject to the same limitations, joint facilities shall be made available for assignment to individuals or groups within the institutions. Arrangements by both organizations and individuals must be made through the appropriate facility designee. Allocation of space shall be made in accordance with these rules and on the basis of time, space, priority of request and the demonstrated needs of the applicant.

NEW SECTION

WAC 132Z-141-050 Limitations on use. (1) Freedom of expression is a highly valued and indispensable quality of college and university life. However, joint facilities may not be used in ways that obstruct or disrupt the institutions' operations, the freedom of movement, or any other lawful activities. Additionally, use of joint facilities may be subject to reasonable time, place and manner restrictions.

(2) Joint facilities may be used for events and forums regarding ballot propositions and/or candidates who have filed for public office providing the event has received preliminary approval by an administrative or academic unit of one of the institutions and final approval by the appropriate facility designee. There are, however, certain limitations on the use of joint facilities for these political activities.

(a) First priority for the use of joint facilities shall be given to regularly scheduled college and university activities.

(b) Joint facilities may be used for political purposes such as events and forums regarding ballot propositions

and/or candidates who have filed for public office only when the full rental cost of the facility is paid. Use of state funds for payment of facility rental costs is prohibited.

(c) Forums or debates may be scheduled at full facility rental rates if all parties to a ballot proposition election or all candidates who have filed for office for a given position, regardless of party affiliation, are given equal access to the use of facilities within a reasonable time.

(d) No person shall solicit contributions on joint property for political uses, except in instances where this limitation conflicts with applicable federal law regarding interference with the mails.

(e) Public areas outside joint facility buildings may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office, excluding solicitation of funds, provided the other normal business of the institutions is not disrupted and entrances to and exits from buildings are not blocked.

(f) Joint facilities or services may not be used to establish or maintain offices or headquarters for political candidates or partisan political causes.

(3) Joint facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities are consistent with the institution's mission, as determined by the appropriate designee.

(4) Nothing in these rules is intended to alter or affect the regular advertising, promotional, or underwriting activities carried on, by, or in the regular media or publications of the institutions. Policies concerning advertising, promotional or underwriting activities included in these media or publications are under the jurisdiction of and must be approved by their respective management or, where applicable, advisory committees, in accordance with applicable state and federal laws.

(5) In accordance with WAC 132Z-141-010 the institutions will make their joint facilities available only for purposes related to their educational missions, including but not limited to instruction, research, public assembly, community programs, and student activities. When permission is granted to use joint facilities for approved instructional or related purposes, as a condition of approval, the user of joint facilities agrees to include in all materials nonendorsement statements in the form approved by the appropriate designee. "Materials" includes all communications, advertisement, and any other printed, electronic, or broadcast/teletext information related to the user's activities offered in joint facilities. The designee will determine the content, size of print and placement of the nonendorsement language. The institutions will not make their joint facilities available for instructional or related purposes that compete with courses or programs offered by the college or university.

(6) Solicitation, or distribution of handbills, pamphlets and similar materials by anyone, whether a member of the college and university community or of the general public, is not permitted in those areas of campus to which access by the public is restricted or where such solicitation or distribution would significantly impinge upon the primary business being conducted.

(7) Electronic amplification on the grounds of the campus shall not be permitted unless approved by the joint committee on facility use.

(8) No person may use joint facilities to camp. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. Violators are subject to arrest and criminal prosecution under applicable state, county and city laws. This provision does not prohibit use of joint facilities where a college or university employee remains overnight to fulfill the responsibilities of his or her position.

(9) The institutions are committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. In accordance with the Washington Clean Indoor Air Act (chapter 70.160 RCW), the Cascadia Community College facility use (chapter 132Z-140 WAC) and Use of University of Washington facilities (chapter 478-136 WAC), the following smoking policy is intended to protect nonsmokers from exposure to smoke in their campus-associated environments and to protect life and property against fire hazards:

(a) Smoking is prohibited inside all college or university vehicles, inside buildings and parking structures owned or occupied by the college or university and/or used by college or university faculty, staff or students and at any outside areas or locations that may directly or indirectly affect the air supply of buildings or carry smoke into buildings.

(b) The institutions may designate specific outdoor locations as smoking areas. Signage will be placed to indicate the designated locations.

(c) Any student, staff, or faculty member who violates the smoking policy may be subject to disciplinary action. In addition, violations of the smoking policy may be subject to appropriate enforcement.

(10) Alcoholic beverages may be possessed, sold, served, and consumed at joint facilities only if the procedures set forth in this section are followed.

(a) The appropriate permits/licenses for possession, sale, service, and consumption of alcohol must be obtained from the Washington state liquor control board.

(b) Permits/licenses must be displayed during the event and all other guidelines and restrictions established by the Washington state liquor control board must be followed.

(c) Alcoholic beverages may be possessed, sold, served, and consumed at joint facilities leased to a commercial tenant under a lease that includes authorization for the tenant to apply and hold a license issued by the Washington state liquor control board.

(d) Except as provided in (c) of this subsection, alcoholic beverages may be possessed, sold, served, and consumed at joint facilities only under permits/licenses issued by the Washington state liquor control board and only as follows:

(i) Events at which alcohol is to be sold must be approved by the joint committee on facility use and an application to the committee must be accompanied by a request for written authorization under (e) or (f) of this subsection or proof that the seller holds an appropriate license; and

(ii) A college or university unit or an individual or organization applying for a permit/license must have obtained approval under (e) or (f) of this subsection; and

(iii) Sale, service, and consumption of alcohol is to be confined to specified room(s) or area(s) specified on the license or permit. Unopened containers may not be sold or served. No alcohol is permitted to be taken off-premises.

(e) Written authorization to apply for a special occasion license to sell alcoholic beverages at joint facilities must be obtained from the joint committee on facility use prior to applying for a special occasion license from the Washington state liquor control board. Authorization should be requested through the facilities use coordinator for the joint committee on facility use sufficiently in advance of the program to allow timely consideration. (Note: Some license applications must be filed with the Washington state liquor control board at least thirty days or more before the event.) Written authorization to apply for such license shall accompany the license application filed with the Washington state liquor control board.

(f) Written authorization to apply for a banquet permit to serve and consume alcoholic beverages at joint facilities must be obtained from the college president or university chancellor prior to applying for the permit from the Washington state liquor control board. Authorization should be requested sufficiently in advance of the program to allow timely consideration. Written authorization to apply for such permit shall accompany the permit application filed with the Washington state liquor control board.

(g) Consumption, possession, dispensation, or sale of alcohol is prohibited except for persons of legal age.

NEW SECTION

WAC 132Z-141-060 Safety and liability. (1) It is the responsibility of any person or organization requesting the use of joint facilities to comply with all applicable policies, procedures, rules and regulations of the institutions, and applicable local, state and federal laws, including but not limited to fire, health and safety regulations.

(2) Permission to an organization not affiliated with one of the institutions or to a registered or official student organization of the college or university for the use of joint facilities is granted with the express understanding and condition that such organization assumes full responsibility for any loss, damage or claims arising out of such use.

When the event involves physical activity, or otherwise will increase the risk of bodily injury above the level inherent in the facilities to be used, proof of appropriate liability insurance coverage with limits of at least one million dollars per occurrence must be provided to the state office of risk management before approval for the requested use will be granted.

WSR 06-08-092

PROPOSED RULES

CASCADIA COMMUNITY COLLEGE

[Filed April 4, 2006, 3:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-142.

Title of Rule and Other Identifying Information: New WAC 132Z-140-010 - 132Z-140-110, use of college facilities.

Hearing Location(s): Room 260 (Board Room) at Cascadia Community College, Bothell, Washington, on May 15, 2006, at 1:00 p.m.

Date of Intended Adoption: June 8, 2006.

Submit Written Comments to: Dede Gonzales, Cascadia Community College, 18345 Campus Way N.E., Bothell, WA 98011, e-mail dgonzales@cascadia.ctc.edu, fax (425) 352-8313, by May 15, 2006.

Assistance for Persons with Disabilities: Contact Enrollment Services at (425) 352-8359, by May 5, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Cascadia Community College will govern operations of its dedicated campus facilities use under WAC 132Z-140-050 - 132Z-140-110, use of college facilities.

Reasons Supporting Proposal: To ensure efficiently and equity Cascadia Community College wishes to establish this chapter.

Statutory Authority for Adoption: RCW 28B.20.130.

Statute Being Implemented: RCW 28B.20.130.

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

Name of Proponent: Cascadia Community College, public.

Name of Agency Personnel Responsible for Drafting and Enforcement: Mr. Terence Hsiao, 18345 Campus Way N.E., (425) 352-8810; and Implementation: Dr. William Christopher, 18345 Campus Way N.E., (425) 352-8810.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 132Z-141 WAC does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Chapter 132Z-141 WAC is not considered significant legislative rules by Cascadia Community College.

April 3, 2006

Dede Gonzales
Executive Assistant
to the President
Rules Coordinator

Chapter 132Z-140 WAC

USE OF COLLEGE FACILITIES

NEW SECTION

WAC 132Z-140-010 Definitions. The following terms shall have the following meaning within chapter 132Z-140 WAC, unless otherwise specified:

"College" shall mean Cascadia Community College;

"College facilities" shall mean those parts of the joint Cascadia Community College/University of Washington, Bothell campus that are dedicated primarily to Cascadia Community College use, and shall include those campus buildings dedicated primarily to Cascadia Community College classrooms, laboratories, and administration, as well as the areas immediately surrounding those buildings;

"Campus" shall mean the entire joint Cascadia Community College/University of Washington, Bothell campus.

NEW SECTION

WAC 132Z-140-020 Use of college facilities. Cascadia Community College provides continued educational opportunity for area citizens. In keeping with this general purpose, the college believes that facilities should be available for a variety of uses that are of benefit to the general public if such general uses do not interfere with the educational mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes. Reasonable time, place, and manner restrictions may be placed on the use of college facilities made available for public or private purposes.

NEW SECTION

WAC 132Z-140-030 Priority of use. (1) When allocating use of college facilities, the highest priority is always given to activities specifically related to the college's mission. No arrangements will be made that may interfere with or operate to the detriment of the college's own teaching, research, or public service programs. In particular, college buildings, properties, and facilities, including those assigned to student programs, are used primarily for:

(a) The regularly established teaching, research, or public service activities of the college and its departments;

(b) Cultural, educational, or recreational activities of the students, faculty, or staff;

(c) Short courses, conferences, seminars, or similar events, conducted either in the public service or for the advancement of specific departmental professional interests, when arranged under the sponsorship of the college or its departments.

(d) Public events of a cultural or professional nature brought to the campus at the request of college departments or committees and presented with their active sponsorship and active participation;

(e) Activities or programs sponsored by educational institutions, by state or federal agencies, or by charitable agencies or civic or community organizations whose activities are of widespread public service and of a character appro-

priate to the college. However, the college will not make its facilities available for instructional or related purposes that compete with courses or programs offered by the college.

(2) College facilities may be assigned to student organizations for regular business meetings, social functions, and programs open to the public. Any recognized campus student organization may invite speakers from outside the college community, after following the facility use application procedures in WAC 132Z-140-100. The appearance of an invited speaker on campus does not represent an endorsement by the college, its faculty or administration, or the board of trustees of the speaker's views.

(3) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned and the time of use, and to ensure the proper maintenance of the facilities. Subject to the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Arrangements by both organizations and individuals must be made through the designated administrative officer, consistent with the facility use application procedures in WAC 132Z-140-100. Allocation of space shall be made in accordance with college rules and on the basis of time, space, priority of request, and the demonstrated needs of the applicant.

(4) The college may restrict an individual's or a group's use of college facilities if that person or group has, in the past, physically abused facilities the individual or group has used. Charges may be imposed for damage or for any unusual costs for the use of facilities. The individual, group or organization requesting space will be required to state in advance the general purpose of any meeting.

NEW SECTION

WAC 132Z-140-040 Policies limiting use. (1) College facilities may be used for purposes of political campaigning by or for candidates who have filed for public office, directed to members of the public, only when the full rental cost of the facility is paid. Use of state funds to pay for facility rental costs for political campaigns is prohibited. No person may solicit contributions on college property for political uses, except where this limitation conflicts with federal law regarding interference with the mails.

(2) Posters and samples may be posted or distributed only in designated areas of the campus, unless prior permission to post/distribute is obtained from the director of communications. Information on the location of designated poster/distribution areas may be obtained in the office of the director of communications.

(3) WAC 132Z-140-010 through 132Z-140-122 shall apply to recognized student groups using college facilities.

(4) Handbills, leaflets, and similar materials except those which are commercial, obscene, or unlawful may be distributed in designated areas on the campus where, and at times when, such distribution will not interfere with the orderly administration of the college affairs or the free flow of traffic. Prior authorization must be obtained from the director of communications. Any distribution of materials as authorized by the director of communications shall not be construed as

support or approval of the content by the college community or the board of trustees.

(5) Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs as determined by the vice-president for finance and operations.

(6) The right of peaceful dissent within the college community will be preserved. While peaceful dissent is acceptable, violence or disruptive behavior is not a legitimate means of dissent. If any person, group, or organization attempts to resolve differences by means of violence, the college retains the right to take steps to protect the safety of individuals, the continuity of the educational process, and the property of the state.

(7) Orderly picketing and other forms of peaceful dissent are protected activities on and about the college premises when such premises are open to public use. However, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits.

(8) Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities), groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

NEW SECTION

WAC 132Z-140-050 Administrative control. The college may adopt administrative procedures consistent with these rules for the use of college facilities, and adopt rental schedules as appropriate.

NEW SECTION

WAC 132Z-140-060 Trespass. (1) Individuals who are not students or members of the faculty or staff and who violate these rules will be advised of the specific nature of the violation, and if they persist in the violation, they will be requested by the president, or his or her designee, to leave the college property. Such a request prohibits the entry of and withdraws the license or privilege to enter onto or remain upon any portion of the college facilities by the person or group of persons requested to leave. Such persons shall be subject to arrest under the provisions of chapter 9A.52 RCW. Individuals requested to leave college property may appeal that decision by submitting to the college president by certified mail, return receipt requested, a letter stating the reasons the person should not be barred from college facilities. The college president or designee shall respond in writing within fifteen calendar days with a final decision of the college. Persons shall continue to be barred from college property while an appeal is pending.

(2) Students, faculty, and staff of the college who do not comply with these regulations will be reported to the appropriate college office or agency for action in accordance with this chapter or with other applicable rules, regulations, or policies. Individuals who are students of the University of

Washington, Bothell and are attending University of Washington, Bothell classes or sponsored events may be referred to the University of Washington, Bothell office of the dean of students as an alternative to the process set forth in this section.

NEW SECTION

WAC 132Z-140-070 Prohibited conduct. (1) The use or possession of unlawful drugs or narcotics, not medically prescribed, or of intoxicants on college property or at college functions, is prohibited. Students obviously under the influence of intoxicants, unlawful drugs or narcotics while in college facilities are subject to disciplinary action.

(2) The use of tobacco in any indoor facility is prohibited in accordance with health regulations.

(a) Smoking is prohibited inside all college or university vehicles, inside buildings and parking structures owned or occupied by the college or university and/or used by college or university faculty, staff or students and at any outside areas or locations that may directly or indirectly affect the air supply of buildings or carry smoke into buildings.

(b) The institutions may designate specific outdoor locations as smoking areas. Signage will be placed to indicate the designated locations.

(c) Any student, staff, or faculty member who violates the smoking policy may be subject to disciplinary action. In addition, violations of the smoking policy may be subject to appropriate enforcement.

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

(4) Authorized events may have alcoholic beverages as approved by the president and with proper permits.

NEW SECTION

WAC 132Z-140-080 Pets. Pets are not permitted in college buildings except guide or service animals for individuals with disabilities. Pet owners on college grounds must adhere to posted regulations.

NEW SECTION

WAC 132Z-140-090 Basis of fee assessment. (1) The basis for establishing and charging use fees reflects the college's assessment of the present market and the cost of operations, and an evaluation of the intended purpose and its relationship to the purposes of this college. The board of trustees has determined that groups or organizations affiliated with the college should be permitted access to facilities at the lowest charge on the fee schedule, which may include complimentary use. A current fee schedule is available from the office of the vice-president for finance and operations.

(2) The college does not wish to compete with private enterprise. Therefore, the college reserves the right to deny applications for facility use when the administration and/or the board of trustees feels a commercial facility is equivalent to the college facility, is available for use, and should be patronized. At no time will facility use be granted for a commercial activity at a rental rate, or upon terms, less than the full and fair rental value of premises used.

NEW SECTION

WAC 132Z-140-100 Application procedures. (1) At least seven working days prior to date of intended use of any college facility, an authorized representative of the requesting organization must submit a written application which may be obtained through the college's office of the vice-president for finance and operations. A single application may be sufficient for a series of meetings by an organization unless those meetings vary significantly in some substantive way; if so, separate applications will be required. The college may consider applications received on less than seven days' notice; however, the college cannot guarantee that such applications will be considered prior to seven days after submission.

(2) Upon approval of the application, an authorized representative of the using organization shall sign the rental agreement. By affixing a signature as representing the using organization, the signatory specifies he or she has authority to enter into agreement on behalf of the organization and if the organization fails to pay the amount due, the signatory becomes responsible for all charges which may include interest payment for overdue accounts as specified on the rental form but not less than one percent per month.

(3) The college may require an advance deposit of up to fifty percent, payable before approval of the application, for large events, events requiring expenditures on the part of the college, or events that require the college to block out significant areas for the renter.

(4) The college reserves the right to make pricing changes without prior notice.

(5) Use of a facility is limited to the facilities specified on the agreement.

(6) The priorities for facility use place primary emphasis on regular college events and activities. The college reserves the right to cancel any permit and refund any payments for use of college facilities and equipment when they deem such action advisable and in the college's best interests.

(7) If an applicant cancels a facility use permit, the applicant is liable for all college costs and expenses in preparing the facility for its use.

(8) Organizations using Cascadia Community College's facilities shall conduct all activities in accordance with applicable local, state, and federal laws including but not limited to the Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, the Rehabilitation Act of 1973, 29 U.S.C. § 794, Washington's law against discrimination, chapter 49.60 RCW, and all rules adopted by the board of trustees.

NEW SECTION**WAC 132Z-140-110 Supervision during facility use.**

(1) Organizations using college facilities are responsible for group conduct and are expected to remain with their group during activities. When the use of special facilities makes it necessary that supervision be provided, the trustees reserve the right to require a staff member be present to represent the college at any activity on college facilities. Such service shall be paid at the current rate, by the organization requesting use of the facility, and does not relieve the organization from safeguarding the college's property.

(2) The security staff or some other authority of the college will open and lock all rented facilities. Keys to buildings or facilities will not be issued or loaned on any occasion to any using organization with the exception of keys to designated off-campus locations.

WSR 06-08-093**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

(Medical Assistance Administration)

[Filed April 4, 2006, 4:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-079.

Title of Rule and Other Identifying Information: WAC 388-501-0135 Patient review and restriction.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on May 9, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2006.Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by May 5, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at shilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal updates and clarifies policy; adds language that allows the department or department-contracted managed care organization (MCO) to restrict a fee-for-service client or MCO enrollee to one narcotic prescriber.

Reasons Supporting Proposal: This proposal supports improved, safer health outcomes for DSHS clients.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.04.055, 42 C.F.R. 431.54.

Statute Being Implemented: RCW 74.08.090, 74.09.520, 74.04.055, 42 C.F.R. 431.54.

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

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

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1342; Implementation and Enforcement: Bernice Lawson, P.O. Box 45532, Olympia, WA 98504-5532, (360) 725-1392.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has

analyzed the proposed rule and concluded that no new costs will be imposed on businesses affected by the rule change. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Bernice Lawson, P.O. Box 45532, Olympia, WA 98504-5532, phone (360) 725-1392, fax (360) 753-0286, e-mail lawsoba@dshs.wa.gov.

March 30, 2006

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-01-099, filed 12/16/03, effective 1/16/04)

WAC 388-501-0135 Patient review and restriction (PRR). (1) Patient review and restriction (PRR) is a ((medical assistance administration (MAA))) health and safety program for medical assistance fee-for-service clients and managed care organization (MCO) enrollees needing help ((in the appropriate use of)) with using medical services appropriately. PRR is authorized under federal Medicaid law by 42 USC 1396n (a)(2) and 42 CFR 431.54. ((A client is assigned to the PRR program based upon a determination by MAA of overuse or inappropriate use of medical services.

((+)) (2) Definitions((—)). The following definitions apply to this section only:

"Abusive practices" means services and/or treatment that are one or both of the following:

- Not medically necessary and may result in unnecessary costs to a medical assistance program; or
- Improper or excessive.

"Appropriate use" means use of health care services that are adapted to or appropriate for a client's or enrollee's medical needs.

"Assigned provider"((—))(A) means a department-enrolled or MCO contracted medical provider who agrees to be assigned ((by MAA staff in the PRR program to be the)) as a primary provider and coordinator of services for a medical assistance client or MCO enrollee in the PRR program. ((A PRR client may have an assigned medical provider; an assigned pharmacy and an assigned hospital and may be restricted to these provider(s)) Assigned providers can include a primary care provider (PCP), a pharmacy, a narcotic prescriber, and, for non-emergency medical services, a hospital.

"At-risk" means a medical history that ((includes evidence)) may include one or more of the following:

- Indicators of forging or altering prescriptions;
- Overuse of health care services that were or are beyond the fee-for-service client's or MCO enrollee's medically necessary care;
- Indicators of ((life-threatening or)) potentially life-threatening events or life-threatening conditions ((which)) that required or may require medical intervention;
- A client's or enrollee's medical assistance identification card reportedly used by an unauthorized person(s) or for an unauthorized purpose(s); or

• Other behaviors or abusive practices that could jeopardize a client's or enrollee's medical treatment or health.

"Conflicting" means drugs and or health care services that are incompatible and/or unsuitable for use together because of undesirable chemical or physiological effects.

"Contraindicated" means to indicate or show that a medical treatment or procedure is inadvisable or not recommended or warranted.

"Duplicative" applies to the use of the same or similar drugs and health care services without due justification. Example: A client (or MCO enrollee) receives health care services from two or more providers for the same or similar condition(s) in an overlapping time frame, or the client receives two or more similarly acting drugs in an overlapping time frame, which could result in a harmful drug interaction or an adverse reaction.

(("Inappropriate use"—means use of medical services which are not adapted to or appropriate for a patient's medical needs.

"Medically unnecessary"—means services that are nonessential, redundant, and/or not necessary for a patient's medical care.

"Overuse"—means the excessive use of medical services well beyond the patient's medically necessary care.))

"Managed care organization" or "MCO" means an organization having a certificate of authority or certificate of registration from the office of insurance commissioner, that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible medical assistance clients under the department's managed care programs.

"MCO enrollee" means a medical assistance client enrolled in, and receiving medical services from, a department-contracted managed care organization (MCO).

"Narcotic prescriber" means any of the following health care professionals who, within their scope of professional practice, are licensed to prescribe and administer controlled substances (see chapter 69.50 RCW, Uniform Controlled Substance Act) for a legitimate medical purpose:

- A physician under chapter 18.71 RCW;
- A physician assistant under chapter 18.71A RCW;
- An osteopathic physician under chapter 18.57 RCW;
- An osteopathic physician assistant under chapter 18.57A RCW; and
- An advanced registered nurse practitioner under chapter 18.79 RCW.

"Primary care provider" or "PCP" means a person licensed or certified under title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), or a physician assistant who supervises, coordinates, and provides health care services to a client or an MCO enrollee, initiates referrals for specialty and ancillary care, and maintains the client's or enrollee's continuity of care.

(3) Restrictions under the PRR program:

(a) Do not apply to a client eligible for a family planning only program; and

(b) Do apply to a fee-for-service client or an MCO enrollee currently assigned to the PRR program.

(4) The prior authorization process described in WAC 388-530-1250 may be required for a fee-for-service client:

(a) Prior to or during a PRR review; or

(b) Currently placed in the PRR program.

~~((2))~~ (5) Clients selected for PRR review~~((—))~~~~((Clients are selected))~~ The department or MCO selects a fee-for-service client or MCO enrollee for PRR review ~~((by))~~ when either or both of the following occur:

(a) ((An "exception report" produced by the Medicaid Management Information System)) A utilization review report indicates the client or enrollee has utilized health care services as described in subsection (6) of this section; or

(b) ((Direct referral from)) Medical providers, social service agencies, or other concerned parties have provided direct referrals.

~~((3))~~ Initial review criteria—Any client of the department's medical programs may be considered for assignment to PRR if conditions in either (a) or (b) of this subsection apply:

(6) PRR review for placement in the PRR program. When the department or MCO selects a client or enrollee for PRR review, the department or MCO staff, with clinical oversight, reviews a client's or enrollee's medical and/or billing history to determine if the client or enrollee has utilized medical services at a frequency or amount that is not medically necessary (42 CFR 431.54(e)). The utilization guidelines in subsection (7) of this section establish that a client or enrollee has utilized medical services at a frequency or amount that is not medically necessary when:

(a) There is a history of medical services that are duplicative, excessive, or contraindicated;

(b) There is a history of conflicting health care services, drugs, or supplies that are not within acceptable medical practice; or

(c) The medical history shows indicators of "at-risk" utilization patterns.

(7) Utilization guidelines for PRR placement. Department and MCO staff use the following utilization guidelines to determine PRR placement and may place a client or enrollee in the PRR program when medical and/or billing histories document any of the following:

(a) Any two or more of the following conditions ((have been met)) occurred in a period of ninety calendar days ((in the previous twelve months)). The client or enrollee:

(i) Received services from four or more different providers, including physicians, advanced registered nurse practitioners (ARNPs), and physician assistants (PAs);

(ii) Had prescriptions filled by four or more different pharmacies;

(iii) Received ten or more prescriptions;

(iv) Had prescriptions written by four or more different prescribers; ((or))

(v) Received similar services from two or more providers in the same day; or

(vi) Had ten or more office visits.

(b) Any one of the following ((conditions applies)) occurred within a period of ninety calendar days. The client or enrollee has:

(i) Made two or more emergency department visits ((in a ninety-day period));

(ii) A medical history ((indicating)) that indicates "at-risk" utilization patterns; ((or))

(iii) Made repeated and documented efforts to seek ((medically unnecessary)) health care services that are not medically necessary; or

(iv) ((and)) Been counseled at least once by a health care provider ((or managed care representative)), a managed care plan clinical or program staff member, or a department clinical or PRR program staff member about the appropriate use of health care services.

~~((4))~~ Request for clinical review—If either subsection (2)(a) or (b) of this section applies, PRR program staff may review the client's medical and billing history for overuse or inappropriate use of medical services and on a case-by-case basis decide to: (c) The client or enrollee received prescriptions for controlled substances from two or more different prescribers in any month.

(8) PRR review outcomes. As a result of the PRR review, department or MCO staff may:

(a) Determine no action is needed and close the client's or enrollee's file;

(b) Send the client or enrollee and, if applicable, the client's or enrollee's authorized representative, a letter of concern with information on specific findings and notice of potential placement in the PRR program; or

(c) ((Request a clinical review of the records.

(5) Clinical review—A nurse consultant, physician, or other qualified clinical staff at MAA may review the client's medical records to determine if there is a history of overuse or inappropriate or medically unnecessary use of services. The reviewer relies on established medical guidelines and may on a case-by-case basis decide to:

(a) Take no action and close the PRR file; or

(b) Proceed with any or all of the following:

(i) Continue to monitor the client's utilization pattern for thirty to sixty days;

(ii) Refer the client for education on appropriate use of services;

(iii) Refer the client to other support services or agencies; or

(iv) Assign the client to the PRR program.

(6) Client restriction—When the clinical review determines that the client has obtained inappropriate or medically unnecessary services, by established medical guidelines, the client will be restricted:

(a) The department will send a written notice to the client or the client's authorized representative that:

(i) Asks the client to select a primary care provider (PCP) and/or a pharmacy and/or a hospital. (See WAC 388-546-5000 through 388-546-5400 for limitations on non-emergency transportation services.)

(ii) Directs the client to respond to the department within twenty calendar days after receiving the written notice:

(A) To provide information on the selected provider(s);

(B) To submit additional medical information, justifying the client's use of medical services; or

(C) To request assistance from PRR program staff.

(iii) Informs the client of fair hearing rights (see subsection (8) of this section); and

(iv) Informs the client that, if a response is not received within twenty calendar days, the client will be restricted to provider(s) assigned by the PRR program.

(b) After twenty calendar days, the PRR program may restrict the client to the specific provider(s) either chosen by the client or assigned by the program.

(7) Assigned providers—Assigned providers will be:

(a) Located in the client's local geographic area; and/or

(b) Reasonably accessible to the client.

(8) Fair hearing rights

(a) A client has ninety calendar days following the date of the department's notice in which to request a fair hearing.

(b) A client who requests a fair hearing within twenty calendar days from the date the client receives notice under subsection (6)(a) of this section, will not be assigned to the PRR program until a fair hearing decision is made or if the client appeals, until a final order is issued.

(c) A client who requests a fair hearing after twenty calendar days from the date the client receives notice under subsection (6)(a) of this section, and who has already been assigned a provider or providers, will remain in PRR until a fair hearing decision is made and a final administrative order is issued. (The client will remain in PRR if the fair hearing decision is adverse to the client.)

(9) Provider selection and role—For fee-for-service clients the providers must be contracted with MAA.

(a) The selected primary care provider (PCP) must be either:

(i) A physician who meets the criteria under WAC 388-502-0020 and 388-502-0030;

(ii) An advanced registered nurse practitioner (ARNP) who meets criteria under WAC 388-502-0020 and 388-502-0030; or

(iii) A licensed physician assistant, practicing with a sponsoring supervising physician.

(b) The PCP supervises and coordinates medical care for the client on restriction. The PCP provides continuity of care and refers to specialists when necessary.

(c) A single pharmacy fills all prescriptions for the client.

(d) A single hospital provides all nonemergent and outpatient hospital care for the client.

(10) Provider changes—A client in PRR cannot change the assigned providers for twelve months after the assignments are made, unless:

(a) The client moves to a residence outside the provider's geographic area;

(b) The provider moves out of the client's geographical area;

(c) The provider refuses to continue to serve the client; or

(d) The client did not select the provider. The client may change a department assigned provider once within sixty calendar days of the initial assignment.

(11) Managed care clients on PRR—A client in PRR enrolled in an MAA managed care plan must select a primary care provider (PCP) and/or a pharmacy and/or a hospital from those identified as available within the plan. In addition to the reasons given in subsection (9) of this section, the client may change a provider if the chosen or assigned PCP or

pharmacy no longer participates with the plan. In such a situation, the client may:

(a) Select a new PCP from the list of available PCPs provided by the plan; or

(b) Transfer enrollment of all family members to the new department contracted plan that the established PCP has joined.

(12) Lifting or continuing restrictions—After twenty-four months of assignment to the PRR program, a PRR client's use of services is reviewed.

(a) A client is removed from PRR after the twenty-four month review if:

(i) Clinical and billing documentation show the client's care was reasonable and appropriate; and/or

(ii) The PCP reports the services requested and received were reasonable and appropriate.

(b) If the client is not removed from PRR after the twenty-four month review, the client remains in PRR for an additional twelve months. After that twelve month period, the client is reviewed again pursuant to this subsection.

(13) Client financial responsibility—So long as the requirements of WAC 388-502-0160 are followed, a client who is restricted under the PRR program may be billed for services and held financially responsible for:

(a) Services that MAA and/or the client's health plan determine are not medically necessary; and:

(b) Nonemergent services obtained from providers or facilities other than those assigned under the PRR program)) Determine that the utilization guidelines for PRR placement establish that the client or enrollee has utilized medical services at an amount or frequency that is not medically necessary and take one or more of the following actions. The department or MCO staff:

(i) Refers the client or enrollee for education on appropriate use of health care services;

(ii) Refers the client or enrollee to other support services or agencies; or

(iii) Places the client or enrollee into the PRR program for an initial restriction period of twenty-four months.

(9) PRR program placement. When a fee-for-service client or MCO enrollee is initially placed in the PRR program, the department or the MCO sends the client or enrollee and, if applicable, the client's or enrollee's authorized representative, a written notice of the PRR placement that:

(a) Restricts the client or enrollee for twenty-four months to one or more of the following types of providers when obtaining health care services:

(i) Primary care physician (PCP) (as defined in subsection (2) of this section.);

(ii) Pharmacy;

(iii) Narcotic prescriber;

(iv) Hospital (for nonemergency medical services); or

(v) Another qualified provider-type, as determined by department or MCO program staff on a case-by-case basis.

(b) Directs the client or enrollee to respond to the department or the MCO within ten days of the date of the written notice:

(i) To select providers, subject to department or MCO approval;

(ii) To submit additional medical information, justifying the client's or enrollee's use of medical services; or

(iii) To request assistance, if needed, from the department or MCO program staff.

(c) Informs the client or enrollee of hearing rights (see subsection (14) of this section).

(d) Informs the client or enrollee that if a response is not received within ten days of the date of the notice, the client or enrollee will be assigned providers.

(10) Selection and role of assigned provider. A fee-for-service client and an MCO enrollee may be afforded a limited choice of providers for the types of services that are to be restricted (see subsection (9)(a) of this section for a list of provider-types that the department may assign).

(a) For a fee-for-service client placed in the PRR program, the assigned:

(i) Provider(s) must be located in the client's local geographic area and/or reasonably accessible to the client.

(ii) Department-enrolled primary care provider (PCP) supervises and coordinates health care services for the client, including providing continuity of care and referrals to specialists when necessary. The PCP must be one of the following:

(A) A physician who meets the criteria under WAC 388-502-0020 and 388-502-0030;

(B) An advanced registered nurse practitioner (ARNP) who meets the criteria under WAC 388-502-0020 and 388-502-0030; or

(C) A licensed physician assistant (PA), practicing with a sponsored supervising physician.

(iii) Narcotic prescriber prescribes all controlled substances for the client.

(iv) Pharmacy fills all prescriptions for the client.

(v) Hospital provides all nonemergency and outpatient hospital care for the client.

(b) For an MCO enrollee placed in the PRR program, the assigned PCP, narcotic prescriber, pharmacy, and hospital must be:

(i) Available within the enrollee's selected MCO; and

(ii) Located in the enrollee's local geographic area and/or reasonably accessible to the enrollee.

(c) A client or enrollee placed in the PRR program cannot change assigned providers for twelve months after the assignments are made, unless:

(i) The client or enrollee moves to a residence outside the provider's geographic area;

(ii) The provider moves out of the client's or enrollee's local geographic area and is no longer reasonably accessible to the client or enrollee;

(iii) The provider refuses to continue to serve the client or enrollee;

(iv) The client or enrollee did not select the provider. The client or enrollee may request to change an assigned provider once within thirty calendar days of the initial assignment;

(v) The enrollee's assigned provider no longer participates with the MCO. In this case, the enrollee may select a new provider from the list of available providers in the MCO or transfer enrollment of all family members to the new department-contracted MCO that the established provider has joined;

(vi) The provider has been suspended or disqualified from participating as a department-enrolled or MCO-contracted provider; or

(vii) The provider's business license has been suspended or revoked by the licensing authority;

(d) When an assigned prescribing provider no longer contracts with the department:

(i) All prescriptions from the provider are invalid thirty days following the date the contract ends;

(ii) All prescriptions from the provider are subject to applicable pharmacy rules in chapter 388-530 WAC or appropriate MCO rules; and

(iii) The client or enrollee must choose or be assigned another provider according to the requirements in this section.

(11) PRR restriction periods. The length of time for a fee-for-service client's or MCO enrollee's:

(a) Initial restriction period of PRR placement is:

(i) A minimum of twenty-four consecutive months; or

(ii) If the client or enrollee is not eligible for a medical assistance program for any month(s) during the span of the twenty-four consecutive months of PRR placement, the restriction period is for the duration of the client's or enrollee's medical assistance program eligibility plus any subsequent period of eligibility up to but not exceeding twenty-four months;

(b) Second restriction period of PRR placement is:

(i) An additional thirty-six consecutive months; or

(ii) If the client or enrollee is not eligible for a medical assistance program for any month(s) during the span of the thirty-six consecutive months, the restriction period is for the duration of the client's or enrollee's eligibility for a medical assistance program plus any subsequent period of eligibility up to but not exceeding thirty-six months; and

(c) Third restriction period and each subsequent period of PRR placement is:

(i) An additional seventy-two consecutive months; or

(ii) If the client or enrollee is not eligible for a medical assistance program for any month(s) during the span of the seventy-two consecutive months, the restriction period is for the duration of the client's or enrollee's eligibility for a medical assistance program plus any subsequent period of eligibility up to but not exceeding each seventy-two month placement.

(12) Department review of a PRR restriction period assignment. The department reviews a fee-for-service client's or MCO enrollee's use of health care services prior to the end of each assigned PRR restriction period described in subsection (11) of this section using the utilization guidelines in subsection (7) of this section.

(a) The department assigns the next PRR restriction period if the utilization guidelines for PRR placement in subsection (7) apply to the client or enrollee.

(b) When the department assigns a subsequent PRR restriction period, the department sends the client or enrollee and, if applicable, the client's or enrollee's authorized representative, a written notice that informs the client or enrollee:

(i) That the current providers assigned to the client or enrollee continue to be assigned to the client during the subsequent PRR restriction period;

(ii) That all PRR program rules continue to apply; and
(iii) Of hearing rights (see subsection (14) of this section).

(c) The department may lift any assigned PRR restriction period if the client or enrollee:

(i) Successfully completes a treatment program that is provided by a chemical dependency service provider certified by the department under chapter 388-805 WAC;

(ii) Submits documentation of completion of the approved treatment program to the department; and

(iii) Maintains appropriate use of health care services within the utilization guidelines described in subsection (7) for six months after the date the treatment ends.

(d) A client or enrollee who is placed in the PRR program after being removed from any PRR restriction period will be placed at the next PRR restriction period described in subsections (11)(b) and (c) of this section.

(e) A client or enrollee will remain placed in the PRR program regardless of change in eligibility program type or change in address.

(13) Client financial responsibility. This subsection takes precedence over WAC 388-502-0160. A fee-for-service client or MCO enrollee placed in the PRR program may be billed by a provider and held financially responsible for health care services when the client or enrollee:

(a) Obtains nonemergency services and the provider who renders the services is not assigned or referred under the PRR program.

(b) Obtains services that are not medically necessary.

(14) Right to hearing. A fee-for-service client or MCO enrollee who believes the department or MCO has taken action erroneously may request a hearing.

(a) A client or enrollee must request the hearing within ninety days after the client or enrollee receives the written notice of restriction. Chapter 388-538 WAC does not apply to the department's or MCO's decision to place an enrollee in the PRR program.

(b) The department conducts a hearing according to chapter 388-02 WAC. Definitions for the terms "hearing", "initial order", and "final order" used in this subsection are found in WAC 388-02-0010.

(c) A client or enrollee who requests a hearing within ten calendar days from the date of the written notice of an initial restriction period of PRR placement under subsection (11)(a) of this section will not be placed in the PRR program until the date an initial order is issued that supports the client's or enrollee's placement in the PRR program.

(d) A client or enrollee who requests a hearing after ten days from the date of the written notice under subsection (11)(a) of this section will remain placed in the PRR program unless a final administrative order is entered that orders their removal from restriction.

(e) A client or enrollee who requests a hearing within ninety days from the date of receiving the written notice under subsection (11)(b) or (c) of this section and who has already been assigned providers will remain placed in the PRR program unless a final administrative order is entered that orders the client's or enrollee's removal from restriction.

(f) An administrative law judge (ALJ) may rule that the client or enrollee be placed in the PRR program prior to the

date the record is closed and prior to the date the initial order is issued based on a showing of just cause (a showing of just cause means it has been demonstrated that there is a legitimate cause to justify the action taken) to protect the health and safety of the client or enrollee.

WSR 06-08-094

PROPOSED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed April 4, 2006, 4:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-02-074.

Title of Rule and Other Identifying Information: WAC 388-32-0030 What FRS services does the department provide?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on May 9, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by May 5, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at shilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule covers the delivery of family reconciliation services provided by children's administration. Services covered in this section are case management and in-home counseling for families in crisis or with at-risk youth.

This revision will remove restrictions on the amount of time that contracted family crisis counselors may be engaged in service with families that has proven effective in strengthening families and preventing out-of-home placements. Additionally, the revision will also remove a maximum hourly service limit on counselors under the same circumstances.

Reasons Supporting Proposal: The current rules restrict children's administration ability to add an evidence-based treatment that assists families in crisis seeking assistance. Specifically, children's administration is seeking to implement a new practice within family reconciliation services in conjunction with the children's mental health initiative and the current Washington Administrative Code will hamper the implementation.

Statutory Authority for Adoption: RCW 13.32A.040, 74.13.031, 74.08.090.

Statute Being Implemented: RCW 13.32A.040.

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

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

Name of Agency Personnel Responsible for Drafting: Tim Kelly, P.O. Box 45710, Olympia, WA 98504-5710, (360) 902-7772.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Children's administration has determined there are minimal or no costs associated with this change.

A cost-benefit analysis is not required under RCW 34.05.328. These rules do not meet the definition of "significant legislative rule" under RCW 34.05.328 (5)(c) and a cost-benefit analysis is not required.

March 30, 2006

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-19-051, filed 9/11/03, effective 9/11/03)

WAC 388-32-0030 What FRS services does the department provide? The assigned social worker provides services to develop skills and supports within families to resolve family conflicts, achieve a reconciliation between parent and child, and to avoid out-of-home placement. The services may include, but are not limited to, referral to services for suicide prevention, psychiatric or other medical care, or psychological, financial, legal, educational, or other social services, as appropriate to the needs of the child and family. Typically FRS is limited to a ninety-day period. Children's administration (CA) provides intake/assessment services (IAS).

(1) ~~((The children's administration's (CA) central intake provides intake services.))~~ Youth and/or their families who call or self-present at children's administration central intake or a local ~~((DCFS))~~ office requesting FRS services ~~((shall))~~ must be provided assistance in contacting the appropriate children's administration's intake services to make a formal request for FRS services.

~~((2))~~ (a) The FRS social worker must contact the family within twenty-four hours of their assignment to the case, to schedule an appointment to begin the phase I family interview process. These FRS phase I sessions are intended to defuse the immediate potential for violence, assess problems, and explore options leading to problem resolution.

~~((3))~~ (b) CA or its contractors may provide FRS phase II crisis counseling services ~~((for up to forty five days)).~~

~~((4))~~ (2) Families eligible for FRS phase II crisis counseling are those who, in the opinion of the family and the CA social worker, require more intensive services than those provided through phase I services.

~~((5))~~ (a) Families must make a commitment to participate in the FRS phase II crisis counseling service and must not concurrently be receiving similar counseling services through other agencies or practitioners. At a minimum, there must be a parent and a child willing to participate. FRS phase

II Crisis Counseling assists the family to develop skills and supports in order to resolve conflicts.

~~((6))~~ (b) FRS phase II crisis counseling services may not exceed twelve hours within forty-five days unless it is provided using a CA approved model that is based on research demonstrating effectiveness.

(c) The assigned counselor helps the family develop skills and supports to resolve conflicts. The counselor may refer to resources including medical, legal, ongoing counseling and CPS for problem resolution.

~~((a))~~ FRS phase II crisis counseling may not be extended for either additional days or additional hours, except by an exception to policy waiver signed by the area administrator.

~~((b))~~ (d) FRS phase II crisis counseling services are available a maximum of twice in a lifetime for any one family. The family must include a parent/guardian who has legal custody of the youth.

WSR 06-08-095

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recover Services Administration)

[Filed April 4, 2006, 4:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-17-136.

Title of Rule and Other Identifying Information: New WAC 388-550-4670 CPE payment program—"Hold Harmless" provision and 388-550-4690 Authorization requirements and utilization review for hospitals eligible for CPE payments.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on May 9, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by May 5, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing these new sections to add a "hold harmless" provision to meet requirements in ESSB 6090 and to describe the authorization requirements and utilization review process for hospitals eligible for certified public expenditure (CPE) payments.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500.

Statute Being Implemented: RCW 74.08.090, 74.09.-500.

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

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

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1342; Implementation and Enforcement: Ayuni Wimpee, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1835.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule and concluded that no new costs will be imposed on businesses affected by them. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ayuni Wimpee, P.O. Box 45510, Health and Recovery Services Administration, Olympia, WA 98504-45510 [98504-5510], phone (360) 725-1835, fax (360) 753-9152, e-mail wimpeah@dshs.wa.gov.

March 29, 2006

Andy Fernando, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-550-4670 CPE payment program — "Hold harmless" provision. (1) To meet legislative requirements, the department includes a "hold harmless" provision for hospital providers eligible for the certified public expenditure (CPE) payment program. Under the "hold harmless" provision, hospitals eligible for payments under the CPE payment program will receive no less in combined state and federal payments than they would have received under the methodologies in effect during state fiscal year (SFY) 2005.

(2) As part of the "hold harmless" payment calculation, the department reprices inpatient hospital claims paid during the service year, beginning with service year SFY 2006, to determine how these claims would have been paid under the payment methodologies in effect during SFY 2005.

(3) The department makes the final "hold harmless" calculation after the department receives the hospital's final audited Medicare cost report and audited financial statements for the service year. The department calculates the federally required prospective cost settlement at the same time. Any adjustments to state grants payments due to the cost settlement calculations will be made as payment adjustments to the next year's state grants.

NEW SECTION

WAC 388-550-4690 Authorization requirements and utilization review for hospitals eligible for CPE payments.

(1) Certified public expenditure (CPE) inpatient hospital claims submitted to the department must meet all authoriza-

tion and program requirements in WAC and current department-published issuances.

(2) The department performs utilization reviews of inpatient hospital:

(a) Admissions in accordance with the requirements of 42 CFR 456, subparts A through C; and

(b) Claims for compliance with medical necessity and length of stay (LOS) standards.

(3) CPE inpatient hospital claims that would have been paid by the diagnosis related group (DRG) payment method prior to July 1, 2005:

(a) Are not targeted for retrospective utilization review based on the department's Professional Activity Study (PAS) Length of Stay (LOS) criteria;

(b) Are subject to the department's medical necessity retrospective utilization review process (see WAC 388-550-1700); and

(c) That involve a client's seven-day readmission (see WAC 388-550-1050) are subject to a department retrospective utilization review described in WAC 388-550-3000 (5)(e).

(4) CPE inpatient hospital claims that would have been paid by the ratio of costs-to-charges (RCC) payment method prior to July 1, 2005 and exceed the Professional Activity Study (PAS) average LOS, will continue to be targeted for retrospective utilization review based on the department's PAS LOS criteria. See WAC 388-550-4300(3).

(5) For claims identified in subsection (4) of this section, the department may request a copy of the client's hospital medical records and itemized billing statements. The department sends written notification to the hospital detailing the department's findings. Any day of a client's hospital stay that exceeds the PAS LOS:

(a) Is paid under the RCC payment method if the department determines it to be medically necessary for the client at the acute level of care;

(b) Is paid as an administrative day (see WAC 388-550-1050 and 388-550-4500(8)) if the department determines it to be medically necessary for the client at the subacute level of care; and

(c) Is not eligible for payment if the department determines it was not medically necessary.

(6) Inpatient hospital claims that would not have been paid under a prior payment methodology are not eligible for payment under the CPE payment program.

WSR 06-08-100

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2005-06—Filed April 5, 2006, 8:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-22-115.

Title of Rule and Other Identifying Information: Establishing requirements for an agent to represent an insurer prior to notifying the commissioner of an appointment.

Hearing Location(s): Insurance Commissioner's Office, Room TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on May 10, 2006, at 10:30 a.m.

Date of Intended Adoption: May 22, 2006.

Submit Written Comments to: Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0258, e-mail Kacys@oic.wa.gov, fax (360) 586-3109, by May 9, 2006.

Assistance for Persons with Disabilities: Contact Lori Villaflores by May 8, 2006, TDD (360) 586-0241.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purposes served by the proposed rules are to: (1) Implement the provisions of RCW 48.17.150 (1)(g)(ii) by establishing a procedure to permit agents to represent insurers prior to receipt of notification by the commissioner of the appointment; (2) clarify current procedures by using principles consistent with the governor's executive order regarding "plain talk"; (3) broadening the methods acceptable to the commissioner for communicating information to include transmission by electronic means; (4) encouraging insurers and other appointing authorities to use the National Insurance Producer Registry (NIPR) internet gateway to appoint and terminate the appointments of agents; and (5) promote uniformity of Washington state's producer licensing procedures with those of other states. It is anticipated that, if promulgated, the effects of the proposed rules will be to: (1) Reduce the commissioner's processing time for appointments; (2) permit licensed agents to represent an insurer immediately upon appointment by the insurer; and (3) reduce the amount of time for licensed agents to begin soliciting insurance on behalf of insurers.

The changes to existing rules are:

- Adding a definition for "business entity" that is based upon language found in section 2A of the National Association of Insurance Commissioners Producer Model Licensing Act (MA).
- Adding definitions for "sending written notice" and "NIPR."
- Providing that the commissioner will confirm an appointment within fifteen days after receipt.
- Prescribing the methods acceptable to the commissioner for making appointments.
- Establishing the method of notification of an insurer where an agent is not eligible for electronic appointment and describing the reasons for ineligibility.
- Providing that the commissioner will notify an insurer where an agent is not eligible for an appointment when the notice is not submitted electronically that is based upon language found in section 14C of the MA.
- Establishing the requirements for renewing an agent's appointment.
- Clarifying the procedure for an insurer to terminate an appointment. *See* RCW 48.17.160(3).
- Clarifying the procedure for an agent to terminate an appointment.
- Specifying the procedure to be followed and information that must be provided where a licensee's appointment or affiliation is terminated "for cause"

that is based upon language found in section 15A of the MA.

- Defining the conduct that constitutes "for cause" that is based upon language found in section 12A of the MA for numbers 1 through 11, and the OIC "Termination of Appointment/Affiliation" form: INS-24(98) for numbers 12 through 15.
- Clarifying that an agent must be licensed for all of the lines of authority possessed by the appointing insurer. *See* WAC 284-17-121.
- Establishing the requirements to allow an agent to act as a representative of and place insurance with an insurer without first notifying the commissioner of the appointment for a period of time up to thirty days from the date the first insurance application is executed by the agent.
- Clarifying that the authority of a licensee affiliated with a business entity is limited to those lines for which the licensee is qualified and within the business entity's lines of authority.

Reasons Supporting Proposal: The proposed rules establish a procedure, a "grace-period," to permit agents to represent insurers prior to receipt of notification by the commissioner of an appointment as authorized by RCW 48.17.150 (1)(g)(ii). When the procedure is used, licensed agents will be able to begin soliciting insurance on behalf of an appointing insurer immediately after the appointment is made without delaying until after notice of the appointment is received and accepted by the commissioner. In addition, by limiting eligibility for taking advantage of the "grace-period" to those insurers and other appointing authorities that submit appointments electronically through NIPR, electronic submissions will increase resulting in a reduction of time for processing appointments (those submitted through NIPR are ordinarily completed within twenty-four to forty-eight hours). While the proposed sections for implementation of RCW 48.17.150 (1)(g)(ii) were being drafted (proposed WAC 284-17-457 through 284-17-471), it became clear that redrafting of WAC 284-17-400 through 284-17-420 was necessary to ensure that, after promulgation, the rules would be integrated in a logical manner that would promote clarity. In addition, the current rules were not drafted according to "plain talk" principles. The proposed rules are intended to conform to those principles. Finally, the proposed rules also reflect efforts to further clarify the current rules by including additional pertinent information for the purpose of completeness and to enhance uniformity with procedures followed in other states by incorporating certain related provisions contained in the National Association of Insurance Commissioners Producer Model Licensing Act.

Statutory Authority for Adoption: RCW 48.02.060 (3)(a) and 48.17.150 (1)(g)(ii).

Statute Being Implemented: RCW 48.17.150 (1)(g)(ii).

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

Name of Proponent: Mike Kreidler, Insurance Commissioner, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: John Hamje, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7262; Enforcement: Carol

Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 19.85.030 (1)(a) a small business economic impact statement is not required because this rule does not impose more than minor costs on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because this rule is a procedural rule as defined in RCW 34.05.328 (5)(c)(iii).

April 5, 2006
Mike Kreidler
Insurance Commissioner

NEW SECTION

WAC 284-17-421 What definitions apply to WAC 284-17-421 through 284-17-483? (1) "Business entity" means a corporation, partnership, limited liability company, or limited liability partnership.

(2) "Sending written notice" or "sending a copy of the written notice" means transmitting the required information in writing and, where appropriate, on forms designated by the commissioner for that purpose, via mail, commercial parcel delivery company, electronic telefacsimile transmission, or e-mail.

(3) "NIPR" means the National Insurance Producer Registry or other equivalent organization or entity designated or maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

NEW SECTION

WAC 284-17-423 How long are initial and reinstated individual licenses in effect? Initial and reinstated individual licenses are valid from the date of issuance until the date of the licensee's next birthday anniversary plus one year.

NEW SECTION

WAC 284-17-425 How long are initial and reinstated business entity licenses in effect? Initial and reinstated business entity licenses are valid for a period of two years from the date of issuance.

NEW SECTION

WAC 284-17-427 What is the renewal period for a license? The renewal period for all licenses is two years.

NEW SECTION

WAC 284-17-429 How long is an initial appointment valid? Initial appointments are valid for the period ending with the insurer's first appointment renewal date after the initial issue date of the appointment. The appointment renewal date for the insurer is assigned by the commissioner.

NEW SECTION

WAC 284-17-431 What is the renewal period for an appointment? The renewal period for all appointments is two years.

NEW SECTION

WAC 284-17-433 How long is an appointment effective? Each appointment is effective until the agent's license expires or is revoked, the appointment has expired, or written notice of termination of the appointment is received by the commissioner, whichever occurs first.

NEW SECTION

WAC 284-17-435 How will the commissioner notify an insurer that an agent has been appointed? The commissioner will confirm the agent's appointment by sending written notice to the insurer within fifteen calendar days after receipt of the appointment by the commissioner.

NEW SECTION

WAC 284-17-437 How may an agent be appointed? An agent may be appointed by using one of the following methods:

(1) By submitting the appointment electronically through NIPR (preferred method); or

(2) By submitting the appointment to the commissioner using the form provided by the commissioner for that purpose. The form may be obtained upon request or may be found at the commissioner's web site.

NEW SECTION

WAC 284-17-439 How will the commissioner notify an insurer if an agent is not eligible for an electronic appointment? If an agent is not eligible for an electronic appointment, the insurer will be notified when the electronic appointment is not accepted for transmission through NIPR. An agent is not eligible for an appointment where the agent's license is not valid or the agent is not licensed for all lines of insurance that the appointing insurer is authorized to transact in the state of Washington.

NEW SECTION

WAC 284-17-441 How will the commissioner notify an insurer if an agent is ineligible for an appointment when the appointment has not been submitted electronically? The commissioner will notify an insurer that an agent is ineligible for an appointment when the appointment has not been submitted electronically by sending written notice to the insurer.

NEW SECTION

WAC 284-17-443 How may an insurer renew an agent's appointment? A renewal appointment list will be sent to the insurer identifying all of the insurer's agents whose

appointments are due to expire. An insurer may renew an appointment by:

- (1) Sending written notice to the commissioner that the appointment will be renewed; and
- (2) Paying the renewal fee for each agent appointed by the insurer on the renewal date assigned by the commissioner.

NEW SECTION

WAC 284-17-445 How may an insurer terminate an appointment? An insurer may terminate an appointment by sending written notice of termination to the agent and by sending a notice of termination of the appointment to the commissioner:

- (1) Electronically through NIPR (preferred method); or
- (2) Using the form provided by the commissioner for that purpose. The form may be obtained upon request or may be found at the commissioner's web site.

NEW SECTION

WAC 284-17-447 How may an agent terminate an appointment? An agent may terminate an appointment by sending advance written notice to the insurer stating:

- (1) The agent will no longer act as a representative of the insurer; and
- (2) The effective date of the termination.

The agent must also send a copy of the written notice to the commissioner.

NEW SECTION

WAC 284-17-449 When an agent's appointment is terminated "for cause," what procedure must be followed in notifying the commissioner? If an insurer or its authorized representative terminates the appointment of an agent "for cause," the insurer must notify the insurance commissioner within thirty days following the effective date of the termination by sending written notice of termination of the appointment "for cause" to the commissioner.

NEW SECTION

WAC 284-17-451 What information must be provided relating to a "for cause" termination? Upon the written request of the commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the "for cause" termination or activity of the agent.

NEW SECTION

WAC 284-17-453 What conduct constitutes "for cause"? "For cause" includes the following conduct:

- (1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
- (2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of a felony;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance license, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Knowingly accepting insurance business from an individual who is not licensed;

(12) Incompetence;

(13) Failure to account for premiums;

(14) Rebating; and

(15) Abandonment.

NEW SECTION

WAC 284-17-455 Is an agent required to be licensed for the same lines of authority as the appointing insurer? An applicant for an agent's license must be licensed for all lines of insurance that the appointing insurer is authorized to transact in the state of Washington with the following exceptions:

(1) Insurers authorized to write lines of insurance in addition to vehicle insurance or surety insurance may appoint agents to write vehicle insurance or surety insurance only. It is only necessary that these appointees take a qualifying examination for vehicle insurance or surety insurance.

(2) Where the appointment is for the "limited" licenses of travel, credit life and disability, credit casualty, specialty producers, or rental car agents, it is not necessary for the applicant to be licensed for all lines of insurance that the appointing insurer is authorized to transact in the state of Washington.

NEW SECTION

WAC 284-17-457 May a licensed agent act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment? A licensed agent may act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment where:

(1) The agent is appointed by the insurer; and

(2) The notice of appointment is submitted electronically through NIPR.

NEW SECTION

WAC 284-17-459 How long may a licensed agent act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment? A licensed agent may act as a representative

of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment for up to thirty calendar days after the date the agent has signed the first application for insurance for submission to the insurer.

NEW SECTION

WAC 284-17-461 May a licensed agent act as a representative of an insurer and solicit insurance on its behalf before notifying the commissioner of the appointment if the notice of appointment is not submitted electronically? If the notice of appointment is not submitted electronically, the commissioner must receive written notice of the appointment and accept the appointment before the licensed agent may act as a representative of an insurer and solicit insurance on its behalf.

NEW SECTION

WAC 284-17-463 Who is responsible for ensuring that the agent is eligible for appointment? The agent and the appointing insurer are responsible for ensuring that the agent is eligible for appointment.

NEW SECTION

WAC 284-17-467 What are the consequences when an agent has solicited insurance on behalf of an insurer as authorized by WAC 284-17-457 but is later determined not to be eligible for appointment by the insurer? When an agent has solicited insurance on behalf of an insurer as authorized by WAC 284-17-457 but is later determined not to be eligible for appointment by the insurer:

- (1) The insurance will be effective;
- (2) The agent is not entitled to receive compensation for any insurance or insurance product sold by the agent; and
- (3) The agent and the insurer may be subject to disciplinary action under RCW 48.17.530.

NEW SECTION

WAC 284-17-469 Is the insurer responsible for the acts of the agent during the period of time the agent is acting as a representative of the insurer or soliciting insurance on its behalf? The insurer is responsible for the acts of the agent during the period of time the agent is acting as a representative of the insurer or soliciting insurance on its behalf but before the commissioner is notified of the appointment. This is the case whether or not the thirty-calendar-day period after the date the agent has signed the first application for insurance for submission to the insurer has elapsed. Any misconduct or errors that may occur during this time will be the responsibility of the insurer and the agent.

NEW SECTION

WAC 284-17-471 What are the consequences if the commissioner is not notified of the appointment within thirty calendar days after the date the agent has signed the first application for insurance for submission to the insurer and the agent continues to act as a representative

of the insurer or solicit insurance on its behalf? If the commissioner is not notified of the appointment within thirty calendar days after the date the agent has signed the first application for insurance for submission to the insurer, the agent may no longer act as a representative of the insurer or solicit insurance on its behalf. If the agent continues to do so, the insurance will be effective but the agent and the insurer may be subject to disciplinary action under RCW 48.17.530.

NEW SECTION

WAC 284-17-473 Is a business entity licensed as an agent, adjuster or broker required to affiliate an individual licensee? Each business entity licensed as an agent, adjuster or broker must notify the commissioner of all individual licensees that represent the business entity and act on its behalf using the form provided by the commissioner for that purpose. The form may be obtained upon request or may be found at the commissioner's web site. Individual licensees that represent the business entity and act on its behalf are "affiliated" with the licensed business entity. A business entity licensee must have at least one individual licensee who is affiliated.

NEW SECTION

WAC 284-17-475 Must an individual licensee who is affiliated with a business entity license be individually appointed by insurers if the business entity is appointed by the insurer? If an individual licensee is affiliated with a business entity licensee, the individual is not required to be directly appointed by the insurer. The licensee's authority to act as an agent is limited to those lines for which the licensee is qualified and within the business entity's lines of authority.

NEW SECTION

WAC 284-17-477 How long is an affiliation valid? An affiliation by a business entity which is not revoked will be valid until the first renewal date after the notice of affiliation. Thereafter, each affiliation may be renewed for a period of two years upon payment of the annual affiliation renewal fee for each affiliation at the time of renewal of the business entity license.

NEW SECTION

WAC 284-17-479 How may a business entity terminate an affiliation? A business entity may terminate an affiliation of an individual by sending written notice of termination to the agent and a copy to the commissioner.

NEW SECTION

WAC 284-17-481 How should an insurer notify the commissioner of a termination of an affiliation "for cause"? If a business entity or its authorized representative terminates the affiliation of a producer "for cause," the business entity must notify the commissioner within thirty days following the effective date of the termination by sending

written notice of termination of the affiliation to the commissioner.

NEW SECTION

WAC 284-17-482 What information must be provided relating to a "for cause" termination? Upon the written request of the commissioner, the business entity shall provide additional information, documents, records or other data pertaining to the "for cause" termination or conduct of the affiliated person.

NEW SECTION

WAC 284-17-483 How may an individual agent terminate an affiliation? An individual agent may terminate the agent's affiliation by sending advance written notice to the business entity stating:

- (1) The agent will no longer act on behalf of the business entity; and
- (2) The effective date of the termination.

The agent must also send a copy of the written notice to the commissioner.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 284-17-400 Renewal dates for agents, brokers, solicitors and adjusters.
- WAC 284-17-410 Appointment renewal and termination procedures for insurance agents.
- WAC 284-17-420 Appointment, affiliation and renewal procedures for licensed persons empowered to exercise the authority conferred to a corporate or firm licensee.

**WSR 06-08-101
PROPOSED RULES
GAMBLING COMMISSION**

[Filed April 5, 2006, 8:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-03-054.

Title of Rule and Other Identifying Information: Amending WAC 230-02-204 Fees—Individuals and 230-05-035 Individual license fees.

Hearing Location(s): Marcus Whitman Hotel, 6 West Rose, Walla Walla, WA 99362, (509) 525-2200, on June 16, 2006, at 9:30 a.m.

Date of Intended Adoption: June 16, 2006.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgr.wa.gov, fax (360) 486-3625, by June 1, 2006.

Assistance for Persons with Disabilities: Contact Shirley Corbett by June 1, 2006, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed change would allow deployed armed service personnel to renew their individual licenses at the regular annual renewal rate for up to six months after returning from deployment without additional costs. The licensee will simply renew their license and provide proof of return from active military service within the previous six months.

Statutory Authority for Adoption: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared pursuant to RCW 19.85.025, and/or the proposed rule does not impose more than minor, if any, costs to businesses and no disproportionate impact to small businesses has been identified.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.320.

April 3, 2006
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 417, filed 12/6/02, effective 6/30/03)

WAC 230-04-204 Fees—Individuals. Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
1. CHARITABLE OR NON-PROFIT GAMBLING MANAGER	Original	\$ 171
	Renewal	\$ 82
	Change of Employer	\$ 82
2. LINKED BINGO PRIZE PROVIDER REPRESENTATIVE	Original	\$ 239
	Renewal	\$ 146
3. COMMERCIAL GAMBLING MANAGER	Original	\$ 175
	Renewal	\$ 84
	Change of Employer	\$ 84

LICENSE TYPE	DEFINITION	FEE
4. DISTRIBUTOR'S OR GAMBLING SERVICES SUPPLIER REPRESENTATIVE	Original	\$ 239
	Renewal	\$ 146
5. MANUFACTURER'S REPRESENTATIVE	Original	\$ 239
	Renewal	\$ 146
6. PUBLIC CARD ROOM EMPLOYEE		
CLASS A - Performs duties as defined in WAC 230-02-415 in a class E card room.		
	Original	\$ 175
	Renewal	\$ 84
CLASS B - Performs duties as defined in WAC 230-02-415 in enhanced and house-banked card rooms.		
	Original, in-state	\$ 237
	Original, out-of-state	\$ 295
	Renewal	\$ 146
	Transfer/Additional Employee/Conversion/ Emergency Waiver Request	\$ 57
7. OTHER FEES		
CHANGE OF NAME	(See WAC 230-04-310)	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
OUT-OF-STATE RECORDS INQUIRY	(See WAC 230-04-240)	As required
8.	<u>If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant shall provide evidence of the completion date of active military service.</u>	

AMENDATORY SECTION (Amending Order 457, filed 3/22/06, effective 1/1/08)

WAC 230-05-035 Individuals license fees. Individuals must pay the following fees to us when they apply for gambling licenses, permits, miscellaneous changes:

1. Charitable or nonprofit gambling manager

License	Fee
Original	\$171
Renewal	\$82
Change of employer	\$82

2. Linked bingo prize provider representative

License	Fee
Original	\$239
Renewal	\$146

3. Commercial gambling manager

License	Fee
Original	\$175
Renewal	\$84
Change of employer	\$84

4. Distributor's or gambling services supplier's representative

License	Fee
Original	\$239
Renewal	\$146

5. Manufacturer's representative

License	Fee
Original	\$239
Renewal	\$146

6. Public card room employee

License	Fee
Class A - Performs card room employee duties in a Class E card room	
Original	\$175
Renewal	\$84
Class B - Performs card room employee duties in enhanced and house-banked card rooms	
Original, in-state	\$237
Original, out-of-state	\$295
Renewal	\$146
Transfer/additional employee/conversion/emergency waiver request	\$57

7. Other fees

Change of name	\$26
Duplicate license	\$26

8. Military personnel returning from service

If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant shall provide evidence of the completion date of active military service.

**WSR 06-08-105
PROPOSED RULES
DEPARTMENT OF HEALTH**

[Filed April 5, 2006, 10:35 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 256-834-990 Midwifery fees and renewal cycle, this proposal adjusts fees for licensed midwives in accordance with the 2006 supplemental operating budget, ESSB 6386. The supplemental budget requires that the fees for initial licensure and renewal be no more than \$450 from July 1, 2006, through June 30, 2007.

Hearing Location(s): Department of Health, Point Plaza East, Room 139, 310 Israel Road S.E., Tumwater, WA 98501, on May 26, 2006, at 9:00 a.m.

Date of Intended Adoption: June 1, 2006.

Submit Written Comments to: Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, rules comment web site http://www3.doh.wa.gov/policyreview/, fax (360) 236-4738, by May 25, 2006.

Assistance for Persons with Disabilities: Contact Kendra Pitzler by May 12, 2006, TTY 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule is to implement the requirement in the 2006 supplemental operating budget to decrease initial and renewal licensure fees for midwives to no more than \$450 from July 1, 2006, through June 30, 2007. The late renewal penalty will also be decreased to 50% of the renewal fee, in accordance with internal policies. The supplemental operating budget also allocates general fund money of \$115,000 to the midwifery program to offset the reduced fees.

Reasons Supporting Proposal: By law, the midwifery program must be supported through licensure fees. The legislature has now directed the fees be reduced and has provided \$115,000 to off-set the reduced fees.

Statutory Authority for Adoption: RCW 43.70.250, 18.50.135 and 2006 operating budget (ESSB 6386).

Statute Being Implemented: Chapters 43.70 and 18.50 RCW, 2006 operating budget (ESSB 6386).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Kendra Pitzler, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4723; Enforcement: Paula Meyer, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4713.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025(3) agencies are not required to prepare a small business economic impact statement if the rule change adjusts fees according to legislative standards per RCW 34.05.310 (4)(f).

A cost-benefit analysis is not required under RCW 34.05.328. A preliminary cost-benefit analysis is not required for rules that adjust fees pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

April 5, 2006
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-834-990 Midwifery fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in

excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$((515.00)) <u>450.00</u>
National examination administration (initial/retake)	103.00
State examination (initial/retake)	154.50
Renewal	((978.75)) <u>450.00</u>
Late renewal penalty	((300.00)) <u>225.00</u>
Duplicate license	25.00
Certification of license	25.00
Application fee—Midwife-in-training program	978.75
Expired license reissuance	300.00

WSR 06-08-107

PROPOSED RULES

HEALTH CARE AUTHORITY
(Public Employees' Benefits Board)

[Order 06-01—Filed April 5, 2006, 11:14 a.m.]

Continuance of WSR 06-06-080.

Preproposal statement of inquiry was filed as WSR 06-02-092.

Title of Rule and Other Identifying Information: **Change in the hearing date** and start time of the hearing from the original filed on March 1, 2006, under WSR 06-06-080.

Hearing Location(s): Health Care Authority, 676 Woodland Square Loop S.E., The Center Conference Room, Olympia, WA, on April 24, 2006, at 1:30 p.m.

Date of Intended Adoption: April 28, 2006.

Submit Written Comments to: Barbara Scott, 676 Woodland Square Loop S.E., P.O. Box 42684, Olympia, WA 98504-2684, e-mail bsco107@hca.wa.gov, fax (360) 923-2602, by April 24, 2006.

Assistance for Persons with Disabilities: Contact Nikki Johnson by April 20, 2006, TTY (888) 923-5622 or (360) 923-2805.

April 5, 2006

Pete Cutler

Rules Coordinator

WSR 06-08-108
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed April 5, 2006, 11:16 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Amending WAC 314-20-145 Beer certificate of approval fee and 314-24-117 Wine certificate of approval fee to establish a fee for the endorsement to a certificate of approval license that allows a United States brewery or winery to distribute their beer or wine to licensed Washington retailers.

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on May 10, 2006, at 9:00 a.m.

Date of Intended Adoption: May 10, 2006.

Submit Written Comments to: Pam Madson, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by May 9, 2006.

Assistance for Persons with Disabilities: Contact Pam Madson by May 1, 2006, TTY (800) 855-2880 or (360) 664-1648.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to establish a fee for the endorsement to the certificate of approval license allowing United States beer and wine manufacturers to distribute their beer or wine directly to Washington retailers licensed to sell alcohol. This is a new endorsement and is in addition to the fee for the certificate of approval license. Subsequent rule proposals will address additional regulations for this self-distribution of beer and wine.

Reasons Supporting Proposal: The liquor control board may establish a fee for an endorsement to the certificate of approval license for United States beer and wine manufacturers under sections 4 and 6 of 2SSB 6823. This endorsement allows the holder to distribute its own product directly to Washington retailers licensed to sell alcohol. This revenue helps to offset the cost of this program.

Statutory Authority for Adoption: RCW 66.08.030 and sections 4 and 6 of 2SSB 6823.

Statute Being Implemented: Sections 4 and 6 of 2SSB 6823.

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

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

Name of Agency Personnel Responsible for Drafting: Pam Madson, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1648; Implementation and Enforcement: Lorraine Lee, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1648.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

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

April 5, 2006
Merritt D. Long
Chairman

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-20-145 Beer certificate of approval fee. (1)

The fee for a beer certificate of approval license is \$200 per year. The certificate of approval holder must pay the \$200 fee for each privilege as described below:

((■)) (a) Manufacturer of beer produced in the United States but outside of Washington state, shipping beer to licensed Washington beer distributors or importers.

((■)) (b) Authorized representative for beer produced in the United States but outside of Washington state, shipping beer to licensed Washington beer distributors or importers.

((■)) (c) Authorized representative for beer produced outside of the United States, shipping beer to licensed Washington beer distributors or importers.

(2) A certificate of approval holder under RCW 66.24.270 (2)(a) may add an endorsement to the certificate of approval that allows the holder to ship beer or strong beer of the holder's own production directly to licensed liquor retailers. The fee for this endorsement is \$100 and is in addition to the fee required for a certificate of approval license.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-24-117 Wine certificate of approval fee. (1)

The fee for a wine certificate of approval license is \$200 per year. The certificate of approval holder must pay the \$200 fee for each privilege as described below:

((■)) (a) Manufacturer of wine produced in the United States but outside of Washington state, shipping wine to licensed Washington wine distributors or importers.

((■)) (b) Authorized representative for wine produced in the United States but outside of Washington state, shipping wine to licensed Washington wine distributors or importers.

((■)) (c) Authorized representative for wine produced outside of the United States, shipping wine to licensed Washington wine distributors or importers.

(2) A certificate of approval holder under RCW 66.24.206 (1)(a) may add an endorsement to the certificate of approval that allows the holder to ship wine of the holder's own production directly to licensed liquor retailers. The fee for this endorsement is \$100 and is in addition to the fee required for a certificate of approval license.

WSR 06-08-109
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed April 5, 2006, 11:19 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: New WAC 314-24-232, establishes the cost of a wine shipper's permit at \$100 annually. As a result of chapter 49, Laws of 2006, the requirements for shipping wine from wine manufacturers directly to consumers are changed and the rules for the current program are repealed.

Repeals WACs implementing the reciprocal wine shipping program and the wine shipper's license: WAC 314-24-230 Wine shipper's license, 314-24-240 Conditions on delivery, and 314-24-250 Labeling requirements for private wine shippers.

Hearing Location(s): Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on May 10, 2006, at 9:00 a.m.

Date of Intended Adoption: May 10, 2006.

Submit Written Comments to: Pam Madson, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by May 9, 2006.

Assistance for Persons with Disabilities: Contact Pam Madson by May 1, 2006, TTY (800) 855-2880 or (360) 664-1648.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to establish a fee for the new wine shipper's permit that allows wineries to ship their own wine directly to consumers. The existing reciprocal wine shipping program is replaced by chapter 49, Laws of 2006 (ESB 6537) and new conditions for shipping wine from wine manufacturers to consumers are established. Rules implementing the existing program are repealed. Subsequent rule proposals will address additional regulations for the new program.

Reasons Supporting Proposal: The 2006 legislature changed conditions allowing United States wineries to ship their wine directly to consumers in Washington (chapter 49, Laws of 2006, ESB 6537). The new program requires that United States wine producers outside of Washington state obtain a wine shipper's permit that allows them to ship wine directly to consumers in Washington. The liquor control board is authorized to set a fee. This revenue helps to offset the cost of the program. Rules implementing the existing program must be repealed to eliminate conflict with the new law.

Statutory Authority for Adoption: RCW 66.08.030, chapter 49, Laws of 2006.

Statute Being Implemented: Section 2, chapter 49, Laws of 2006.

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

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

Name of Agency Personnel Responsible for Drafting: Pam Madson, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1648; Implementation and Enforcement: Lorraine Lee, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1600.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required, nor is one necessary for this proposal.

April 5, 2006
Merritt D. Long
Chairman

NEW SECTION

WAC 314-24-232 What is the cost of a wine shipper's permit? A wine shipper's permit is an annual permit. The fee is one hundred dollars per year.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-24-230	Wine shipper's license.
WAC 314-24-240	Conditions on delivery.
WAC 314-24-250	Labeling requirements for private wine shippers.

WSR 06-08-110 PROPOSED RULES DEPARTMENT OF PERSONNEL

[Filed April 5, 2006, 11:46 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-28-055 How is the periodic increment date determined for a general government employee?, 357-28-056 How is the periodic increment date determined for a higher education employee?

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on May 11, 2006, at 10:00 a.m.

Date of Intended Adoption: May 11, 2006.

Submit Written Comments to: Connie Goff, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by May 5, 2006. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact department of personnel by May 5, 2006, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal changes the way a periodic increment date is set for a general government employee. The PID would not be reset when the employee is appointed to another position with a different salary range maximum.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: Department of personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Connie Goff, 521 Capitol Way South, Olympia, WA, (360) 664-6250; Implementation and Enforcement: Department of personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

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

April 5, 2006
Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-055 How is the periodic increment date determined for a general government employee? (1) For ~~((a))~~ a general government employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005 is retained.

(2) For ~~((a))~~ a general government employee appointed to a position on or after July 1, 2005 whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For ~~((a))~~ a general government employee appointed to a position on or after July 1, 2005 whose base salary is set above the minimum but below the maximum of the salary range, the periodic increment date is twelve months from date of appointment.

(4) Once ~~((a))~~ a general government employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070 and 357-28-075; or

~~(b) ((The employee is appointed to another position with a different salary range maximum. Upon subsequent appointment, the provisions of subsection (2) and (3) of this section apply.))~~ The periodic increment date is adjusted for leave without pay in accordance with WAC 357-31-345.

NEW SECTION

WAC 357-28-056 How is the periodic increment date determined for a higher education employee? (1) For a higher education employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005 is retained.

(2) For a higher education employee appointed to a position on or after July 1, 2005 whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a higher education employee appointed to a position on or after July 1, 2005 whose base salary is set above the minimum but below the maximum of the salary range, the periodic increment date is twelve months from date of appointment.

(4) Once a higher education employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070 and 357-28-075; or

(b) The employee is appointed to another position with a different salary range maximum. Upon subsequent appointment, the provisions of subsection (2) and (3) of this section apply.

WSR 06-08-111

PROPOSED RULES

DEPARTMENT OF PERSONNEL

[Filed April 5, 2006, 11:47 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-31-010 Which employees qualify for holiday compensation?

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on May 11, 2006, at 10:00 a.m.

Date of Intended Adoption: May 11, 2006.

Submit Written Comments to: Connie Goff, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by May 5, 2006. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact department of personnel by May 5, 2006, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This modification will change WAC 357-31-010 so that part-time general government employees hired during the month of a holiday will not be compensated for holidays that occur prior to their hire date.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: Department of personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Connie Goff, 521 Capitol Way South, Olympia, WA, (360) 664-6250; Implementation and Enforcement: Department of personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

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

April 5, 2006
Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-08-136, filed 4/6/05, effective 7/1/05)

WAC 357-31-010 Which employees qualify for holiday compensation? (1) Full-time employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

(a) For at least eighty nonovertime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees who satisfy the requirements of subsection (1) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.