

WSR 06-10-014
EXPEDITED RULES
DEPARTMENT OF LICENSING

[Filed April 24, 2006, 8:31 a.m.]

Title of Rule and Other Identifying Information: Chapter 308-56A WAC, Certificates of title—Motor vehicles etc., to amend WAC 308-56A-270 Forms of signature.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Dale R. Brown, Department of Licensing, 1125 Washington Street S.E., P.O. Box 2957, Olympia, WA 98507-2957, AND RECEIVED BY July 6, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to correct a mistake in the citing of an RCW. The effect of this change will be to correct the use of the wrong statute.

Reasons Supporting Proposal: With the changes in law over the years, additional definitions have been added to RCW 9A.04.110 and our current cite of the RCW is incorrect.

Statutory Authority for Adoption: RCW 46.16.010.

Statute Being Implemented: RCW 9A.04.110.

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

Name of Agency Personnel Responsible for Drafting: Dale R. Brown, 1125 Washington Street S.E., Olympia, (360) 902-4020; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

Sharon L. Whitehead
 for Liz Luce
 Director

AMENDATORY SECTION (Amending WSR 03-08-055, filed 3/31/03, effective 5/1/03)

WAC 308-56A-270 Forms of signature. (1) **What forms of signature are acceptable to the department?** The department will accept:

(a) The signature of an individual in the same form as the name appears on the application or on the certificate of ownership.

(b) The signature containing initials corresponding to the first letter of the given name(s).

(c) The signature containing a given name(s) corresponding to the initials.

(d) Common nicknames such as Bob for Robert, Jim for James, Betty for Elizabeth, etc.

(e) The signature, any memorandum, signature stamp, mark or sign made with the intent to authenticate an application for certificate of ownership or registration of any person (~~provided in RCW 9A.04.110(23)~~).

(2) **What form of signature is required for business owned vehicles?** Signatures for business owned vehicles must include:

(a) The name of the business or a commonly accepted abbreviation for the business;

(b) The signature of the person authorized to sign on behalf of the business as stated in subsection (1) of this section; and

(c) The title or position of that person.

WSR 06-10-015
EXPEDITED RULES
DEPARTMENT OF LICENSING

[Filed April 24, 2006, 8:33 a.m.]

Title of Rule and Other Identifying Information: WAC 308-56A-090 Disclosure of individual vehicle owner information, 308-93-087 Disclosure of names and addresses of individual vessel owners, 308-93-088 Disclosure violations, penalties, and 308-93-089 List of registered and legal owners of vessels—Furnished for certain purposes—Penalty for unauthorized use. These rules describe the disclosure of information held by the department on vehicle and vessel records.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Dale R. Brown, Department of Licensing, 1125 Washington Street S.E., P.O. Box 2957, Olympia, WA 98507-2957, AND RECEIVED BY July 6, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule change is to update the rule to reflect statute effective July 1, 2006. The currently referenced statute will be changing from chapter 42.17 RCW to chapter 42.56 RCW July 1, 2006.

Reasons Supporting Proposal: Amend the rules to correctly show the proper statute.

Statutory Authority for Adoption: RCW 46.01.110.

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

Name of Agency Personnel Responsible for Drafting: Dale R. Brown, 1125 Washington Street S.E., Olympia, (360) 902-4020; Implementation and Enforcement: Robert

Smith, 1125 Washington Street S.E., Olympia, (360) 902-1065.

Sharon L. Whitehead
for Liz Luce
Director

AMENDATORY SECTION (Amending WSR 05-18-002, filed 8/25/05, effective 9/25/05)

WAC 308-56A-090 Disclosure of individual vehicle owner information. (1) **What vehicle record owner information is protected from disclosure?** Vehicle information protected from disclosure is the same as under chapters ((42-17)) 42.56 and 46.12 RCW which includes:

- (a) Name and address information;
- (b) Social Security numbers;
- (c) Medical or disability information; and
- (d) Telephone numbers.

(2) **Who may receive disclosure of individual vehicle owner names and addresses?**

(a) Government agencies that require use of name and address information in their normal course of business;

(b) Any business entity that requires use of name and address information in their normal course of business in accordance with these rules;

(c) Vehicle manufacturers who require vehicle ownership information for recall of their product;

(d) Individuals that provide proof of personal identification:

- (i) For vehicles currently registered in their name; or
- (ii) For vehicles they can provide a bill of sale or acceptable documents indicating that they purchased the vehicle.

(e) Please see subsection (3) of this section for additional restrictions.

Business and government entities requesting disclosure of individual vehicle owner names and addresses must enter into a disclosure agreement with the department.

(3) **When both a mailing and residence address are recorded on the vehicle record, which address will be disclosed?** Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(4) **What documentation does the department require to disclose vehicle owner name(s) and address(es)?** The department requires:

(a) A signed and notarized vehicle/vessel record disclosure request application form provided by the department and completed by the applicant indicating the specific purpose for which the information will be used; and

(b) A disclosure agreement with the department as required by RCW 46.12.380.

- (c) Acceptable business entity verification; or
- (d) A contract with the department.

(5) **What is acceptable business verification?** For purposes of this section acceptable business verification includes:

(a) If the requester is a licensed Washington business, a copy of its current master business license;

(b) If the requester is a business that is not required to be licensed in this state, its federal employer identification number/federal tax number (or Uniform Business Identifier) on official letterhead with a notarized signature of the owner or an authorized representative;

(c) If an attorney, a copy of the current bar card; or

(d) If a private investigator, a copy of the current private investigator's license.

(6) **Does a business need to supply a new form and copy of the business license each time vehicle information is requested?** Yes, each time a request is made for vehicle information a new form and copy of the business license is needed, unless a contract exists between the business and the department.

(7) **If a business entity has entered into a contract or agreement with the department, is a separate request for each inquiry required?** No. If a business entity has entered into a signed contract between the business and the department, a separate request for each inquiry is not required.

(8) **Are businesses allowed individual owner information on vehicle records?** Yes, if a business requires individual owner information to conduct its regular business and qualifies under RCW 46.12.380 and 18 U.S.C. 27.21 (commonly known as Driver Privacy Protection Act), it may receive individual vehicle owner information.

(9) **Who may release the vehicle owner name and address information?**

(a) The public disclosure unit of the vehicle services division of the department of licensing; or

(b) Agents and subagents, but only when disclosing information for purposes described in subsection (2)(d) of this section.

(10) **When may the department disclose the individual name(s) and address(es) of vehicle owners?** Notwithstanding the provisions of chapter ((42-17)) 42.56 RCW, the department may disclose names and addresses of vehicle owners when:

(a) The requesting party is a business entity that requests the information for use in their normal course of business;

(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party:

(i) Agrees they will use the information only for the purpose stated in the request for the information; and

(ii) Will not use, or facilitate the use of the information for the purpose of making any unsolicited business contact with a person named in the disclosed information.

(11) **What does the term "unsolicited business contact" mean?** The term "unsolicited business contact" means a contact that is intended to result in or promote the sale of any goods or services to a person named in the disclosure information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request

and where the request is made in connection with the transaction.

(12) **Is the department required to notify the vehicle owner when ownership information is disclosed?** When the department grants a request from an attorney or private investigator for information under this section, the department will provide notice to the vehicle owner that the request has been granted. The notice will provide the name and address of the requesting party. Additionally, if a contract holder releases owner information to a private investigator or attorney, they must notify the vehicle owner that a request has been granted, and include the name and address of the requesting party.

(13) **How long will the department retain the request for disclosure of vehicle owner information?** The department will retain the request for disclosure for three years.

(14) **Who is responsible for assuring that the information is used appropriately?** Any person, business, entity or association that receives vehicle owner information under this section is responsible for assuring that the information received is not used for a purpose contrary to the agreement between the person, business, entity or association and the department.

AMENDATORY SECTION (Amending WSR 01-16-105, filed 7/30/01, effective 8/30/01)

WAC 308-93-087 Disclosure of names and addresses of individual vessel owners. (1) What vessel record information is protected from disclosure?

Vessel information protected from disclosure is the same as under chapters ((42.17)) 42.56 and 46.12 RCW which includes:

- (a) Name and address information;
- (b) Social Security numbers;
- (c) Uniform Business Identifier; and
- (d) Telephone numbers.

(2) Who may receive disclosure of individual vessel owner names and addresses?

- (a) Government agencies;
- (b) Any business entity that uses the name and address information in their normal course of business in accordance with these rules;
- (c) Vessel manufacturers who require vessel ownership information for recall of their own products;
- (d) A vessel owner for their own vessel; or
- (e) Individuals who meet the criteria listed in subsection (6) of this section.

(3) What documentation does the department require to disclose vessel owner names and addresses?

The department requires:

- (a) A record disclosure request form provided by the department and completed by the applicant; and
 - (b) Acceptable business entity verification.
- (4) What is acceptable business verification?**

For purposes of this section acceptable business verification includes:

- (a) If a licensed Washington business, a copy of its current unexpired master business license;

- (b) If a business not required to be licensed in this state, its federal employer identification number/federal tax number (or Uniform Business Identifier) on its official letterhead with a notarized signature of the owner or an authorized representative;

- (c) If an attorney, a copy of the current bar card; or

- (d) If a private investigator, a copy of the current private investigator's license; or

- (e) If an out-of-state business not licensed in Washington:

- (i) If the business is required to be licensed, a copy of its current business license issued by the governmental authority with jurisdiction over the license; or

- (ii) If the business is not required to be licensed, its federal employer identification number/federal tax number on its official letterhead with a notarized signature of the owner or an authorized representative.

(5) If a business entity has entered into an agreement with the department, is a separate request for each inquiry required?

No. If a business entity has entered into a written agreement with the department, a separate request for each inquiry is not required.

(6) When may an individual be provided vessel owner name and address information?

- (a) When the owner of record is requesting the information; or

- (b) When the requester presents a bill of sale or other evidence of ownership and needs the ownership information of record to obtain a release of interest.

(7) Who may release the vessel owner name and address information?

- (a) The department of licensing; or

- (b) Agents and subagents, only when disclosing information for purposes described in subsection (6)(b) of this section.

(8) When may the department disclose the names and addresses of vessel owners?

Notwithstanding the provisions of chapter ((42.17)) 42.56 RCW, the department may disclose the names and addresses of vessel owners when:

- (a) The requesting party is a business entity that requests the information for use in their normal course of business;

- (b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the purpose for which the information will be used;

- (c) The requesting party enters into a disclosure agreement with the department in which the party:

- (i) Agrees they will use the information only for the purpose stated in the request for the information; and

- (ii) Will not use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information; and

- (d) Individuals who meet the criteria listed in subsection (6) of this section.

(9) What does the term "unsolicited business contact" mean?

The term "unsolicited business contact" means a contact that is intended to result in or promote the sale of any goods

or services to a person named in the disclosure information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(10) Is the department required to notify the vessel owner when ownership information is disclosed?

When the department grants a request from an attorney or private investigator, for information under this section, the department will provide notice to the vessel owner that the request has been granted. In addition, the notice will contain the name and address of the requesting party.

(11) How long will the department retain the request for disclosure of vessel owner information?

The department will retain the request for disclosure for three years.

(12) Who is responsible for assuring that the information is used appropriately?

Any person, business, entity or association that receives vessel owner information under this section is responsible for assuring that the information received is not used for a purpose contrary to the agreement between the person, business, entity or association and the department.

AMENDATORY SECTION (Amending WSR 01-16-105, filed 7/30/01, effective 8/30/01)

WAC 308-93-088 Disclosure violations, penalties. (1) What are violations of chapter ~~((42-17))~~ 42.56 and 46.12 RCW, this chapter, or a disclosure agreement with the department?

(a) The unauthorized disclosure of information from a department vessel record;

(b) The use of a false representation to obtain information from the department's vessel records;

(c) The use of information obtained from the department vessel records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any vessel owner name or address to another person not disclosed in the request or disclosure agreement.

(2) What are the penalties associated with these violations?

The department may suspend or revoke for up to five years the privilege of obtaining vessel record information.

In addition:

(a) The unauthorized disclosure of information from a department vessel record; or

(b) The use of a false representation to obtain information from the department's vessel records; or

(c) The use of information obtained from the department vessel records for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any vessel owner name or address to another person not disclosed in the request or disclosure agreement is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprison-

ment in a county jail not to exceed one year, or both such fine and imprisonment for each violation.

AMENDATORY SECTION (Amending WSR 01-16-105, filed 7/30/01, effective 8/30/01)

WAC 308-93-089 Lists of registered and legal owners of vessels—Furnished for certain purposes—Penalty for unauthorized use. (1) What vessel record information is protected?

Vessel information protected under chapters ~~((42-17))~~ 42.56 and 46.12 RCW and Executive Order 00-03 for vehicles includes:

(a) Name and address information;

(b) Social Security numbers;

(c) Medical or disability information;

(d) Telephone numbers; and

(e) ~~((Uniform Business Identifier, and~~
(f)) Bank account information.

(2) Who may receive list disclosure of individual vessel owner names and addresses?

In addition to any other authority that it may have, the department of licensing may furnish lists of registered and legal owners of vessels only for the purposes specified in this section to:

(a) The manufactures of vessels, or their authorized agents, to be used to enable those manufactures to carry out the provisions of the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.) and the Code of Federal Regulations adopted by the United States Coast Guard;

(b) Any governmental agency of the United States or Canada, or political subdivisions, to be used by them or their authorized commercial agents or contractors only in connection with the enforcement of the laws governing the operation of a vessel or vessel safety programs administered by that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(c) A person, organization or entity for the purposes of compiling statistical data relating to vessel demographics in this state. The department may provide only a specific part of the list that is required for completion of the work required of the person, organization or entity;

(d) An authorized agent or contractor of the department to be used only in connection with providing vessel excise tax, licensing and registration information to vessel dealers; or

(e) Any business regularly making loans to other persons to finance the purchase of vessels, to be used to assist the person requesting the list to determine ownership of specific vessel for the purpose of determining whether or not to provide such financing.

(3) What documentation is needed to receive lists of vessel owner names and addresses?

Each entity must submit the following to the department:

(a) A record disclosure request form provided by the department and completed by the applicant; and

(b) Verification of the applicant's identity as a business; and

(c) A formal agreement between the requester and the department.

(4) What is acceptable verification?

For purposes of this section acceptable business verification includes:

(a) If a licensed Washington business, a copy of its current unexpired master business license;

(b) If a business not required to be licensed in this state, its federal identification number/federal tax number (or Uniform Business Identifier) on its official letterhead with a notarized signature of the owner or an authorized representative;

(c) If an attorney, a copy of the current bar card;

(d) If a private investigator, a copy of the current private investigator's license; or

(e) If an out-of-state business not licensed in Washington:

(i) If the business is required to be licensed, a copy of its current business license issued by the governmental authority with jurisdiction over the license; or

(ii) If the business is not required to be licensed, its federal employer identification number/federal tax number on its official letterhead with a notarized signature of the owner or an authorized representative.

(5) If a business entity or governmental agency has entered into an agreement with the department, is a separate request for each inquiry required?

No. If a business or governmental agency has entered into an agreement with the department, a separate request for each inquiry is not required if the information will be used as originally stated.

(6) Who may release list of vessel owner name and address information?

The department of licensing, vehicle services division's public disclosure/records/contracts section, is authorized to release lists of names and addresses to qualified applicants.

(7) When may the department disclose lists of names and addresses of vessel owners?

Notwithstanding the provisions of chapter ((42.17)) 42.56 RCW, the department may disclose the names and addresses of vessel owners when:

(a) The requesting party is a business entity that requests the information for use in their normal course of business;

(b) The request is in writing, signed by the person requesting disclosure, contains the full legal name and address of the requesting party and/or their business, and specifies the purpose for which the information will be used; and

(c) The requesting party enters into a disclosure agreement with the department in which the party:

(i) Agrees they will use the information only for the purpose stated in the request for the information; and

(ii) Will not use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information.

(8) What does the term "unsolicited business contact" mean?

The term "unsolicited business contact" means a contact that is intended to result in or promote the sale of any goods or services to a person named in the disclosure information.

The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

(9) Is the department required to notify the vessel owner when ownership information is disclosed?

No, except when the information is granted to an attorney or private investigator. The department will then provide the owner of the vessel with notification; the notice will also contain the name and address of the requesting party.

(10) How long will the department retain the request for lists of names and address disclosure?

The department will retain the requests for three years unless a contract for ongoing receipt of information is entered into.

(11) Who is responsible for assuring that the information is used appropriately?

Any person, business, entity or association that receives vessel owner information under this section shall be responsible for assuring that the information received is not used for a purpose contrary to the agreement between the person, business, entity or association and the department or state and federal laws and regulations.

WSR 06-10-038

EXPEDITED RULES

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed April 28, 2006, 11:51 a.m.]

Title of Rule and Other Identifying Information: Chapter 180-20 WAC, School bus driver qualifications, transferred to chapter 392-144 WAC. Legislation passed during the 2006 legislative session (E2SHB 3098, section 906) transferred authority to adopt rules governing the training and qualification of school bus drivers from the Washington state board of education (SBE) to the office of superintendent of public instruction (OSPI).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Allan J. Jones, Director, Pupil Transportation and Traffic Safety Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY July 5, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To comply with legislation passed during the 2006 legislative session (E2SHB 3098, section 906) the authority to adopt rules governing the training and qualification of school bus drivers

needs to be transferred from the Washington state board of education (SBE) to the office of superintendent of public instruction (OSPI).

This transfer of existing rules will result in no change to existing requirements.

Reasons Supporting Proposal: E2SHB 3098, section 906.

Statutory Authority for Adoption: RCW 28A.160.210.

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

Name of Proponent: Superintendent of public instruction, pupil transportation and traffic safety education, governmental.

Name of Agency Personnel Responsible for Drafting: Charlie Schreck, Office of Professional Practices, (360) 725-6130; Implementation: Marcia Riggers, Student Support and Operations, (360) 725-6175; and Enforcement: Allan J. Jones, Pupil Transportation and Traffic Safety Education, (360) 725-6120.

April 28, 2006

Marty Daybell

Deputy Superintendent

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-009 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "School bus driver" means a person, who is employed by a school district including contracted drivers under WAC ~~((+80-20-031))~~ 392-144-040 (1) and (2) and as part of that employment or contract, operates a school bus as defined in WAC 392-143-010, or other motor vehicles for the regularly scheduled transportation of students between home and school. School buses shall be operated by authorized school bus drivers when transporting students. An authorized school bus driver may also transport students on field trips and other school related activities.

(2) "A school bus driver's authorization" means an authorization issued by the superintendent of public instruction indicating that the person has met ~~((state board of education))~~ the requirements to operate a school bus or other motor vehicle for the purpose of transporting students to and from school routinely on scheduled routes and/or school activities. A school bus driver must be authorized prior to transporting students and such authorization shall continue in effect as long as the person continues to meet the requirements of this chapter. A school bus driver authorization is not valid if suspended, revoked or lapsed.

(3) "School bus driver instructor's authorization" means an authorization issued by the superintendent of public instruction to a person successfully completing the superintendent of public instruction approved school bus driver instructor course. This authorization qualifies a person to train and verify the training of school bus drivers. This authorization shall lapse unless the holder successfully completes an annual school bus driver instructor's in-service course.

(4) "School bus driver training course" means a course established by the superintendent of public instruction and

taught by an authorized school bus driver instructor. This course shall be successfully completed by all applicants for a school bus driver's authorization.

(5) "School bus driver annual in-service training course" means an annual course taught by an authorized school bus driver instructor. The content and minimum time requirements of such course shall be annually determined by the superintendent of public instruction and shall be required to be completed no earlier than August 1st and no later than November 1st by all authorized school bus drivers.

(6) "School bus driver instructor's course" means a training program authorized by the superintendent of public instruction to qualify a person as a school bus driver instructor.

(7) "School bus driver instructor's annual in-service course" means an annual required course, the content of which shall be determined by the superintendent of public instruction. Successful completion of this course prevents the instructor's authorization from lapsing.

(8) "Serious behavioral problem" includes, but is not limited to, conduct which indicates unfitness to carry out the responsibilities related to the occupation or job performance of transporting children, such as: Dishonesty; immorality; or misuse of alcohol, a controlled substance, or a prescription drug; or furnishing alcohol or controlled substances to a minor or student. It does not include the orderly exercise during off-duty hours of any rights guaranteed under the law to citizens generally, except where such conduct indicates a safety risk for the transportation of students.

(9) "Medical examiner's certificate" means a written verification of passing a medical examination in accordance with the standards established in 49 CFR 391.41 through 391.49, of the Federal Motor Carrier Safety Regulations. School bus drivers must provide verification of passing a medical examination at a minimum of every twenty-four months. School bus drivers must continue to meet these medical requirements during the time between examinations. This requirement does not prevent a school district from requesting a more frequent examination.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-021 Training and qualifications of school bus driver instructors—Administration. ~~((It shall be the responsibility of the superintendent of public instruction to administer the program of training and qualifications of school bus driver instructors consistent with the provisions of this chapter.))~~ The superintendent of public instruction shall determine the qualifications necessary for applicants for the school bus driver instructor course and qualifications necessary for continuation of the school bus driver instructor authorization. Each school bus driver instructor shall verify annually that they continue to meet said qualifications. Intentional falsification of school bus driver training records shall result in permanent revocation of the school bus driver instructor authorization. In the case of denial of authorization or disqualification, the superintendent of public instruction shall provide an appeal process consistent with the provisions of this chapter.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-101 Initial requirements for school bus drivers. Every authorized school bus driver must meet the following initial requirements:

- (1) Be at least twenty-one years of age.
- (2) Have at least one year of experience as a driver of a truck or commercial vehicle requiring a special endorsement or, in the alternative, at least three years of experience as a driver of a passenger vehicle.
- (3) Submit to a criminal record check according to chapter 28A.400 RCW which shows that no offenses have been committed which would be grounds for denial of an authorization.
- (4) Satisfactorily complete a school bus driver training course (~~and each year thereafter, satisfactorily complete a school bus driver in-service training course~~).
- (5) Meet all applicable continuing school bus driver requirements in WAC (~~180-20-102~~) 392-144-102.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-102 Continuing requirements for authorized school bus drivers. Every authorized school bus driver must continue to meet the following requirements:

- (1) Have a valid driver's license or commercial driver's license, as required by law, issued by the state department of licensing.
- (2) Satisfactorily complete the annual school bus driver in-service training course.
- (3) Hold a current and valid first-aid card which certifies that the applicant has completed a course in first aid.
- (4) Submit annually to the school district a disclosure of all crimes against children or other persons and all civil adjudications in a dependency action or in a domestic relation action and all disciplinary board final decisions of sexual abuse or exploitation or physical abuse as required by RCW 43.43.834(2) and disclosure of all convictions which may be grounds for denial, suspension, or revocation of authorization under WAC (~~180-20-103~~) 392-144-103.
- (5) Every authorized school bus driver must continue to meet the following physical requirements:
 - (a) Is physically able to maneuver and control a school bus under all driving conditions; and
 - (b) Is physically able to use all controls and equipment found on state minimum specified school buses; and
 - (c) Is physically able to perform daily routine school bus vehicle safety inspections; and
 - (d) Has sufficient strength and agility to move about in a school bus as required to provide assistance to students in evacuating the bus. The driver must be able to move from a seated position in a sixty-five passenger school bus, or the largest school bus the driver will be operating, to the emergency door, open the emergency door, and exit the bus through the emergency door, all within twenty-five seconds; and
 - (e) Provide verification of holding a current and valid medical examiner's certificate.

AMENDATORY SECTION (Amending WSR 06-01-039, filed 12/15/05, effective 1/15/06)

WAC 180-20-103 Disqualifying conditions for authorized school bus drivers. A school bus driver's authorization will be denied or revoked as a result of the following conditions:

- (1) Misrepresenting or concealing a material fact in obtaining a school bus driver's authorization or in reinstatement thereof in the previous five years.
- (2) Having a driving license privilege suspended or revoked as a result of a moving violation as defined in WAC 308-104-160 within the preceding five years or have had their commercial driver's license disqualified, suspended, or revoked within the preceding five years; a certified copy of the disqualification, suspension, or revocation order issued by the department of licensing being conclusive evidence of the disqualification, suspension, or revocation.
- (3) Incurring three or more speeding tickets of ten miles per hour or more over the speed limit within the last five years.
- (4) Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a lapsed, suspended, surrendered, or revoked school bus driver's authorization in a position for which authorization is required under this chapter.
- (5) Having intentionally and knowingly transported public school students within the state of Washington within the previous five years with a suspended or revoked driver's license or a suspended, disqualified or revoked commercial driver's license.
- (6) Having refused to take a drug or alcohol test as required by the provisions of 49 CFR 382 within the preceding five years. Provided, That this requirement shall not apply to any refusal to take a drug or alcohol test prior to January 31, 2005.
- (7) Having a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other coworkers.
- (8) Having been convicted of any misdemeanor, gross misdemeanor, or felony (including instances in which a plea of guilty or *nolo contendere* is the basis for the conviction) or being under a deferred prosecution under chapter 10.05 RCW where the conduct or alleged conduct is related to the occupation of a school bus driver, including, but not limited to, the following:
 - (a) The physical neglect of a child under chapter 9A.42 RCW;
 - (b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, excepting motor vehicle violations under chapter 46.61 RCW;
 - (c) The sexual exploitation of a child under chapter 9.68A RCW;
 - (d) Sexual offenses where a child is the victim under chapter 9A.44 RCW;
 - (e) The promotion of prostitution of a child under chapter 9A.88 RCW;
 - (f) The sale or purchase of a child under RCW 9A.64.030;

(g) Any crime involving the use, sale, possession, or transportation of any controlled substance or prescription drug within the last ten years;

(h) Any crime involving driving when a driver's license is suspended or revoked, hit and run driving, driving while intoxicated, being in physical control of motor vehicle while intoxicated, reckless driving, negligent driving of a serious nature, vehicular assault or vehicular homicide, within the last five years;

(i) Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal crimes and crimes committed in other states;

(j) Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;

(k) Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.

(9) Having been convicted of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to serve as an authorized school bus driver, the following and any other relevant considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as an authorized school bus driver within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness;

(h) If this subsection is applied to a person currently authorized as a school bus driver in a suspension or revocation action, the effect on the school bus driving profession, including any chilling effect, shall be weighed; and

(i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or authorized school bus driver has the duty to provide available evidence relative to the above considerations. The superintendent of public instruction has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or authorized school bus driver.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-111 Temporary authorizations—Requirements and issuing procedures. (1) A temporary school bus driver authorization may be issued by the superintendent of public instruction upon application by an autho-

rized representative of the employing school district when the following has been provided:

(a) Verification of successful completion of the school bus driver training course.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file a current five-year complete driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days prior to the date the application is being submitted for temporary authorization.

(d) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC (~~(180-20-103)~~) 392-144-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(e) Verification that it has requested a criminal record check as required under chapter 28A.400 RCW and the date of such request.

(f) Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the education welfare or personal safety of students, teachers, bus drivers, or other colleagues.

(g) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter except for a first-aid card and/or the results of a criminal record check.

(2) Upon approval of the temporary authorization, notice will be provided to the employing school district.

(3) The temporary authorization shall be valid for a period of sixty calendar days. The temporary authorization may be renewed by approval of the regional transportation coordinator when the results of the criminal background check have not been received.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-112 School bus driver authorization—Requirements and issuing procedures. A school bus driver authorization may be issued by the superintendent of public instruction upon application by an authorized representative of the employing school district subject to compliance with the following provisions:

(1) The employing school district shall forward to the superintendent of public instruction the following verifications relating to the applicant:

(a) Verification of successful completion of the school bus driver training course taught by an authorized school bus driver instructor.

(b) Verification that it has on file a copy of a current and valid medical examiner's certificate.

(c) Verification that it has on file a current five-year complete driver's abstract, including departmental actions, of the applicant's employment and nonemployment driving record issued by the department of licensing verifying compliance with all provisions of this chapter. The issue date of this abstract must be within sixty calendar days prior to the date an application was submitted for temporary authorization. If no request for a temporary school bus authorization was submitted, the issue date must be within sixty calendar days prior to the date of application of the school bus driver authorization.

(d) Verification that the applicant has a current and valid first-aid card.

(e) Verification that it has on file a disclosure statement in compliance with preemployment inquiry regulations in WAC 162-12-140, signed by the applicant, specifying all convictions which relate to fitness to perform the job of a school bus driver under WAC ((180-20-103)) 392-144-103 and all crimes against children or other persons, that meets the requirements of RCW 43.43.834(2).

(f) Verification that it has on file the results of a criminal record check as required under chapter 28A.400 RCW and that such results establish that the applicant has not committed any offense which constitutes grounds for denying, suspending, or revoking an authorization under this chapter and the date of such request.

(g) Verification that it has on file an applicant's disclosure of all serious behavioral problems which explains the nature of all such problems and/or conditions, a listing of the names, addresses, and telephone numbers of all doctors, psychologists, psychiatrists, counselors, therapists, or other health care practitioners of any kind or hospitals, clinics, or other facilities who have examined and/or treated the applicant for such problems and/or conditions and dates of examinations, therapy, or treatment and the school district has determined that any reported serious behavioral problem does not endanger the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues.

(h) Verification that the applicant complies with all of the requirements for authorized school bus drivers set forth in this chapter.

(2) Upon approval of an application, the superintendent of public instruction shall issue a notice of school bus driver authorization to the employing school district.

(3) Subsequent authorizations for an individual driver with new or additional employing school districts must be issued from the superintendent of public instruction to such districts prior to the operation of any motor vehicle for the transportation of children.

(4) The superintendent of public instruction will provide each school district with a list of their authorized school bus drivers and each authorized school bus driver's status.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-120 Discipline—Grounds for denial, suspension, or revocation of authorization—Emergency suspension—Appeals—Adjudicative proceedings. (1) A request for an authorization may be denied or an authorization issued under this chapter may be suspended or revoked for failure to meet any of the minimum requirements set forth in WAC ((180-20-101 and 180-20-102)) 392-144-101 and 392-144-102 or for disqualifying conditions set forth in WAC ((180-20-103)) 392-144-103, established by a preponderance of the evidence.

(2) Conduct, which by a preponderance of the evidence, amounts to a serious behavioral problem which endangers the educational welfare or personal safety of students, teachers, school bus drivers, or other colleagues is grounds for denial, suspension, or revocation whether or not the conduct constitutes a crime. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to denial, suspension, or revocation action. Upon such conviction, however, the judgment and sentence is conclusive evidence at the ensuing hearing of the guilt of the authorized driver or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based.

(3)(a) Any person in treatment for alcohol or other drug misuse shall have his or her authorization suspended until treatment is satisfactorily completed and the completion is confirmed by a state-approved alcohol or drug treatment program at which time the authorization will be reinstated.

(b) In all cases of deferred prosecution under chapter 10.05 RCW, the authorization shall be suspended until the court confirms successful completion of the court approved treatment program at which time the authorization will be reinstated.

(4) Emergency suspension. If the superintendent of public instruction finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, emergency suspension of an authorization may be ordered pending proceedings for revocation or other action. In such cases, the superintendent of public instruction shall expedite all due process actions as quickly as possible.

(5)(a) Appeals and adjudicative proceedings. Any person desiring to appeal a denial, suspension, or revocation of a school bus driver authorization may do so to the superintendent of public instruction or designee in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494, and the administrative practices and procedures of the superintendent of public instruction in chapter 392-101 WAC.

(b) The superintendent of public instruction may assign the adjudicative proceeding to the office of administrative hearings and may delegate final decision-making authority to the administrative law judge conducting the hearing.

(c) The superintendent of public instruction may appoint a person to review initial orders and to prepare and enter final agency orders in accordance with RCW 34.05.464.

(d) Any person who disagrees with the school district's determination of failure to meet any school bus driver autho-

rization qualifications may request that the school district forward the pertinent records to the superintendent of public instruction. After review or investigation, the superintendent of public instruction shall grant, deny, suspend, or revoke the authorization.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-135 School bus driver—Reporting. (1)

Every person authorized under this chapter to operate a motor vehicle to transport children shall, within twenty calendar days, notify his or her employer in writing of the filing of any criminal charge involving conduct listed in WAC ((180-20-103)) 392-144-103. The authorized driver shall also notify his or her employer of any disqualifying traffic convictions, or license suspension or revocation orders issued by the department of licensing. In cases where the employer is providing transportation services through a contract with the school district, the contractor shall immediately notify the school district superintendent or designee.

(2) The notification in writing shall identify the name of the authorized driver, his or her authorization number, the court in which the action is commenced, and the case number assigned to the action.

(3) The failure of an authorized driver to comply with the provisions of this section is an act of unprofessional conduct and constitutes grounds for authorization suspension or revocation by the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-140 School district—Reporting. (1)

Every school district employing authorized school bus drivers to transport children or contracting with a private firm who provides such authorized drivers as a part of a contract shall, within twenty calendar days, notify the superintendent of public instruction in writing of knowledge it may have of the filing of any criminal charge involving the conduct listed in WAC ((180-20-103)) 392-144-103 against any authorized school bus driver.

(2) The notification in writing shall be by certified or registered mail and shall identify the name of the authorized school bus driver, his or her authorization number, the court in which the action is commenced, and the case number assigned to the action.

AMENDATORY SECTION (Amending WSR 05-19-107, filed 9/20/05, effective 10/21/05)

WAC 180-20-145 School district—Verification of drivers continuing compliance. (1) Every school district shall evaluate each authorized school bus driver for continuing compliance with the provisions of this chapter annually. The results of this evaluation of all drivers shall be forwarded to the superintendent of public instruction on SPI Form 1799, Verification Statement and Confirmation of Updated Records, no later than November 15th of each year.

(2) This report shall verify that each authorized school bus driver's medical examination certificate expiration date,

first-aid expiration date, driver's license expiration date and most recent school bus driver in-service training date has been updated in compliance with OSPI procedures.

(3) This report shall verify that each authorized school bus driver has made an updated disclosure in writing and signed and sworn under penalty of perjury which updates the disclosure required in WAC ((180-20-102)) 392-144-102(4).

(4) This report shall verify that each authorized school bus driver's five-year driving record is in compliance with WAC ((180-20-103)) 392-144-103.

(5) This report shall verify that each authorized school bus driver remains in compliance with the physical requirements of WAC ((180-20-102)) 392-144-102(5).

(6) This report shall be a written verification that the evaluation has been conducted in accordance with the requirements of this chapter and that all drivers are in compliance, or if all drivers are not in compliance, a list of drivers who are out of compliance and the reason for noncompliance shall be provided.

NEW SECTION

The following sections of the Washington Administrative Code are decodified as follows:

Old WAC Number	New WAC Number
WAC 180-20-005	WAC 392-144-005
WAC 180-20-007	WAC 392-144-010
WAC 180-20-009	WAC 392-144-020
WAC 180-20-021	WAC 392-144-030
WAC 180-20-031	WAC 392-144-040
WAC 180-20-101	WAC 392-144-101
WAC 180-20-102	WAC 392-144-102
WAC 180-20-103	WAC 392-144-103
WAC 180-20-111	WAC 392-144-110
WAC 180-20-112	WAC 392-144-120
WAC 180-20-120	WAC 392-144-130
WAC 180-20-135	WAC 392-144-140
WAC 180-20-140	WAC 392-144-150
WAC 180-20-145	WAC 392-144-160

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-20-011	Training and qualifications of school bus drivers—Administration.
----------------	---

WSR 06-10-047
EXPEDITED RULES
OFFICE OF THE
CODE REVISER

[Filed May 1, 2006, 11:37 a.m.]

Title of Rule and Other Identifying Information: Amending chapters 1-06 and 1-21 WAC, to correct internal references and make the language more consistent and clearer to understand.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kerry S. Radcliff, Office of the Code Reviser, P.O. Box 40551, Olympia, WA 98504-0551, phone (360) 786-6697, fax (360) 786-1529 (maximum ten pages), e-mail Radcliff_ke@leg.wa.gov, AND RECEIVED BY July 3, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update internal references, office location, the description of the statute law committee, office hours for public records inspection and copying, and make the office and publication names consistent.

Reasons Supporting Proposal: In 2005 the legislature reorganized the statute law committee. It is necessary to change the office of the code reviser's rules to reflect this change and at the same time make the rules easier and clearer to read by updating internal references and names.

Statutory Authority for Adoption: RCW 1.08.110 and 34.05.385.

Statute Being Implemented: RCW 1.08.001 and Executive Order 97-2.

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

Name of Proponent: Office of the code reviser, governmental.

Name of Agency Personnel Responsible for Drafting: RayeJean Saar, P.O. Box 40551, Olympia, WA 98504-0551, (360) 786-6777; Implementation and Enforcement: Office of the Code Reviser, P.O. Box 40551, Olympia, WA 98504-0551, (360) 786-6777.

May 1, 2006
 K. Kyle Thiessen
 Code Reviser

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the statute law committee and the office of the code reviser with the provisions of chapter ((42.17)) 42.56 RCW ((Initiative 276), and in particular

RCW 42.17.250 through 42.17.348,) dealing with public records.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by this agency regardless of physical form or characteristics, except (a) those records of the bill drafting functions of the code reviser deemed confidential pursuant to RCW 1.08.027 and (b) computer programs, products, and data bases deemed exempt pursuant to chapter 42.56 RCW ((42.17.310)).

Public record as relates to this agency does not include computer programs, products, and data bases prepared, owned, used, or retained by this agency for the benefit of another state agency. Applications for the disclosure of such records should be addressed to the agency in interest.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Committee" means the statute law committee created pursuant to chapter 1.08 RCW (chapter 157, Laws of 1951).

(4) "Reviser" means the code reviser employed by the committee pursuant to RCW 1.08.011, and where appropriate the term also refers to the staff and employees of the office of the code reviser((~~'s office~~)).

(5) "Agency" means the committee, the code reviser, and the staff and employees thereof, unless the context clearly indicates otherwise.

(6) "Records of the bill drafting functions" means any file or writing in the office of the code reviser((~~'s office~~)) created in connection with a request for preparation of legislation or research thereon, and the confidentiality of such records may be waived only by the person who requested the services of the office of the code reviser((~~'s office~~)).

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-030 Description of central and field organization. (1) The office of the code reviser is located ((~~on~~)) in the ((ground floor of the Legislative)) Pritchard Building, Olympia, Washington, 98504.

(2) The committee consists of ((~~twelve attorneys~~)) eleven members. ((~~Five are appointed by the Washington State Bar Association.~~)) The secretary of the senate, the chief clerk of the house of representatives, the staff director of a nonpartisan professional committee, staff of the senate and the house of representatives, two ((each by)) members of the senate and the house ((~~judiciary committees~~)) of representatives, and one each appointed by the governor, the chief justice of the supreme court, and the ((~~speaker of the house~~))

Washington State Bar Association. The committee employs a code reviser, who serves as its secretary.

(3) Among the primary responsibilities of the committee and the code reviser is the duty to periodically codify, index, and publish the *Revised Code of Washington* and to revise, correct, and harmonize the statutes by means of administrative or suggested legislative action as may be appropriate. The agency is also the official bill drafting arm of the legislature and its various committees, and prepares for the legislature all bills, memorials, resolutions, amendments, and conference reports, which activities are pursued on a nonpartisan, professional, lawyer-client, confidential basis under RCW 1.08.027, and RCW 1.08.028 prohibits the office of the code reviser (~~(s office)~~) from rendering written opinions concerning the constitutionality of any proposal. The agency also produces the legislative digest and history of bills and the daily status report. Immediately following each session of the legislature, the committee indexes and publishes the temporary edition of the session laws and subsequently publishes the permanent edition; it also responds to citizen's requests for copies of recently enacted laws. The committee administers the Administrative Procedure Act, serving as official repository for the rules of the various state agencies and the institutions of higher ~~(learning)~~ education, and creating and publishing the *Washington Administrative Code*.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-050 Public records available. All public records of the agency, as defined in WAC 1-06-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by chapter 42.56 RCW (~~(42-17-310)~~) and WAC 1-06-100.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-060 Public records officer. The agency's public records shall be in charge of the public records officer designated by the code reviser. The public records officer shall be responsible for the following: The implementation of the agency's rules and regulations regarding release of public records, coordinating the staff of the agency in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter ~~((42-17))~~ 42.56 RCW.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the agency. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to ~~((5))~~ 4:30 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-080 Requests for public records. In accordance with requirements of chapter ~~((42-17))~~ 42.56 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the agency which shall be available at its office. The form shall be presented to the public records officer; or to any member of the agency's staff, if the public records officer is not available, at the office of the agency during customary office hours. The request shall include the following information:

(a) The name, address, and organization represented, if any, of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the agency's current index, an appropriate description of the record requested;

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 8, filed 9/25/74, effective 10/25/74)

WAC 1-06-100 Exemptions. (1) The agency reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 1-06-080 is exempt under the provisions of RCW 1.08.027 or ~~((42-17-310))~~ chapter 42.56 RCW.

(2) In addition, pursuant to RCW ~~((42-17-260))~~ 42.56.070(1), the agency reserves the right to delete identifying details when it makes available or publishes any public record, in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ~~((42-17))~~ 42.56 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-130 Records index. (1) A chronological index is maintained providing identifying information as to

all governmental records issued, adopted, or promulgated after June 30, 1972, that are deemed by the agency to fall within the purview of RCW ((42.17.260)) 42.56.070 and that are not exempted under chapter 42.56 RCW, RCW 1.08.027, 40.14.180, ((42.17.310,)) or WAC 1-06-020.

(2) The current index promulgated by the agency must be available to all persons under the same rules and on the same rules and on the same conditions as are applied to public records available for inspection.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-140 Communications with the agency. All communications with the agency including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter ((42.17)) 42.56 RCW and these rules; requests for copies of the agency's rules and other matters, shall be addressed as follows: Office of the Code Reviser, c/o Public Records Officer, P.O. Box 40551, Olympia, WA 98504-0551.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-06-160 Request for public record—Form. A copy of the request for public records form may be obtained from the office of the code reviser((~~'s office~~)).

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-010 Preproposal statement of inquiry. To solicit comments from the public as required by RCW 34.05.310 on a subject of possible rule making, but before a formal notice is filed under RCW 34.05.320, an agency shall complete and file with the office of the code reviser((~~'s office~~)) a CR-101 form (preproposal statement of inquiry). This requirement does **not** apply to all rule making. The exceptions are set forth in RCW 34.05.310(4).

The text of the new rule is neither required nor recommended at this stage, but if text is submitted for filing, it must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The filing will appear in the Washington State Register in accordance with the schedule provided in WAC 1-21-040. Note that the CR-101 must be published at least thirty days before the CR-102 form (proposed rule making) may be filed.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-015 Expedited rule making. (1) Expedited rule making filed under RCW 34.05.353 includes both the expedited adoption of rules and the expedited repeal of rules.

(2) An agency shall file notice for the expedited rule making with the office of the code reviser((~~'s office~~)) on a CR-105 form (expedited rule making). The agency must file the full text of a proposed new or amendatory rule, along with the CR-105 form. The text must meet the form and style requirements of WAC 1-21-110 through 1-21-130. The fil-

ing will appear in the Washington State Register in accordance with the schedule provided in WAC 1-21-040. The expedited rule making must be published in the Washington State Register at least forty-five days before the agency may file a CR-103 form (rule-making order).

(3) WAC sections proposed for expedited repeal should be listed by citation and caption only, either individually or by entire chapter.

(4) The agency shall file the original and six copies of the expedited rule-making package (form and text). The office of the code reviser((~~'s office~~)) will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-21-020 Notice—Form, contents, numbers.

(1) An agency shall file a regular notice of proposed rule making under RCW 34.05.320 with the office of the code reviser((~~'s office~~)) on a CR-102 form (proposed rule making). The agency must file the full text of the proposed rule along with the notice form (RCW 34.08.020). This filing must be at least thirty days after the CR-101 form, if required, was published (RCW 34.05.310).

(2) The agency shall file the original and six copies of the notice package (form and text). The office of the code reviser((~~'s office~~)) will keep the original and two copies and return four stamped copies to the agency. The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-030 Notice period—Washington State Register distribution date. (1) Under RCW 34.05.320, notice of proposed rule making must be published in the Washington State Register at least ((20)) twenty days before the agency may hold a hearing on the proposal. The Washington State Register is distributed on the first and third Wednesdays of each month. If a distribution date falls on a state holiday as determined by RCW 1.16.050, the distribution date of that Washington State Register will be delayed until Thursday.

(2) In counting the twenty-day notice period, consider the distribution date of the pertinent Washington State Register as day ((20)) twenty; count down to day zero to find the first day on which a hearing may be held; cf. RCW 1.12.040 and *State ex rel. Earley v. Batchelor*, 15 Wn.2d 149 (1942).

(3) The schedule of closing dates on page 2 of each Washington State Register applies this section and WAC 1-21-040 to the current year. In case of a discrepancy between the WAC rules and the schedule, the rules have priority.

AMENDATORY SECTION (Amending WSR 95-17-070, filed 8/17/95, effective 9/17/95)

WAC 1-21-040 *Washington State Register* material—Time for filing. To permit sufficient lead time for the editorial, data capture, and printing process, material to be published in a particular issue of the *Washington State Register* must be in the physical possession of and filed in the office of the code reviser((~~'s office~~)) according to the following schedule:

(1) If the material has been prepared and completed by the office of the code reviser's order typing service (OTS), by 12:00 noon on the fourteenth day before the distribution date of that issue of the *Washington State Register*; or

(2) If the material has been prepared by any means other than OTS and it contains:

(a) No more than ((+0)) ten pages, by 12:00 noon on the fourteenth day before the distribution date of that *Washington State Register*; or

(b) More than ((+0)) ten but less than ((30)) thirty pages, by 12:00 noon on the twenty-eighth day before the distribution date of that *Washington State Register*; or

(c) ((30)) Thirty or more pages, by 12:00 noon on the forty-second day before the distribution date of that *Washington State Register*.

The office of the code reviser's filing forms are not included in this page count, but all other material submitted for filing is counted for purposes of this section, excluding federal rules that are not published in the *Washington State Register*.

AMENDATORY SECTION (Amending WSR 95-17-070, filed 8/17/95, effective 9/17/95)

WAC 1-21-050 Continuance. (1) Under RCW 34.05.325(5), an agency may continue a proceeding that has already started by establishing the later time and place on the record. No publication is required in the *Washington State Register*, but before filing the administrative order adopting the rule, the agency shall give notice of the continuance to the office of the code reviser((~~'s office~~)) on a CR-102 form. If no substantial change is made in the proposal, the continuance is not subject to the ((20)) twenty-day publication requirement of RCW 34.05.320. Note that RCW 34.05.335(4) prohibits an agency from adopting a rule before the time established in the published notice.

(2) An agency may change the date or the location, or both, of a rule-making proceeding before the proceeding has begun if the agency gives adequate notice to the public through the same methods that were used for the original notice. Adequate notice for purposes of the *Washington State Register* consists of filing the continuance notice on a CR-102 form with the office of the code reviser in time for it to appear in a *Washington State Register* that will be distributed at least five days before the originally scheduled proceeding.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-060 Withdrawal of proposal. Under RCW 34.05.335 a proposed rule may be withdrawn any time before

adoption. The agency shall provide notice of withdrawal to the office of the code reviser((~~'s office~~)) by a letter or memorandum signed by the person who signed the original notice, or by that person's designee. The agency shall send a copy of the withdrawal notice to the joint administrative rules review committee.

AMENDATORY SECTION (Amending WSR 04-02-071, filed 1/7/04, effective 2/7/04)

WAC 1-21-070 Administrative order. (1) The administrative order by which an agency adopts a rule shall be done on a CR-103 form (rule-making order) provided by the office of the code reviser((~~'s office~~)) or, if required by agency practice, on an agency form that provides the information required by RCW 34.05.360.

(2) The agency shall file with the office of the code reviser((~~'s office~~)) the original and six copies of the permanent or emergency package (form and text). The joint administrative rules review committee has requested that the agency submit three of these copies to the committee for purposes of legislative review. The agency should keep the remaining copy for its files.

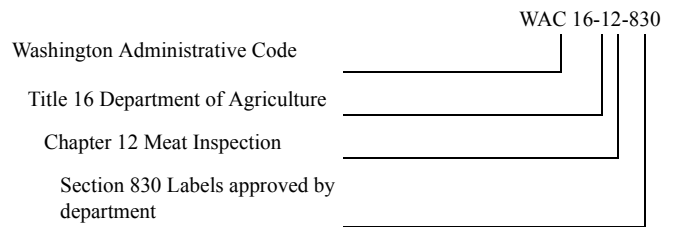
AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-080 Numbering system—Captions. (1) The primary division of the Washington Administrative Code (WAC) is the **Title**. The office of the code reviser assigns each agency a title number, which usually is in alphabetical order. A newly created agency shall apply to the office of the code reviser((~~'s office~~)) for assignment of a title number. If an agency's name is changed, the title number stays the same. The list of titles is published in volume 1 of the WAC.

(2) Each title is divided into **chapters**, which are the major subject matter divisions of the agency's title.

(3) Each chapter is divided into **sections**, which are the individual rules and are the smallest unit that can be amended. The agency shall place a short caption on each section to describe its contents. Sections should be as short as reasonably possible to facilitate finding an individual rule and amending it in the future.

(4) The WAC citation number is a composite of these three divisions:



AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-090 Redesignation of WAC numbers. (1) WAC numbers are permanent and may not be changed by the use of addition and deletion marks used for text amendments. If an agency wishes to recodify its permanent rules, it should

consult with the office of the code reviser(~~'s office~~) for the method to be used.

(2) WAC numbers previously assigned to repealed sections or chapters may not be reused to designate other sections or chapters. The numbers of the repealed rules are shown in a disposition table prepared by the office of the code reviser and published with the appropriate chapter or title.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-120 Underlining restricted. Since RCW 34.05.395 requires the use of the legislature's bill-drafting style to show amendments in previously adopted rules, underlined text may be used only to show new material added to an existing section. Underlining may not be used for emphasis, as it would not permit codification of the section in the usual manner. *Italics* or **boldface** may be used for emphasis. Consult with the office of the code reviser(~~'s office~~) if in doubt as to the proper method for indicating these styles.

AMENDATORY SECTION (Amending WSR 00-18-001, filed 8/23/00, effective 12/31/00)

WAC 1-21-140 Review of previously adopted rules. When an agency is required under RCW 34.05.630 to review permanent or emergency rules previously adopted, the agency shall file notice of the review with the code reviser on a CR-104 form (review of previously adopted rules). The agency shall file the original and six copies of the notice. Four copies will be returned to the agency, three of which shall be delivered to the joint administrative rules review committee. The notice is subject to the twenty-day requirement of RCW 34.05.320. The text of the rule under review is not needed with this notice.

AMENDATORY SECTION (Amending Order 89-1, filed 5/31/89)

WAC 1-21-150 Exemptions from publication. Agency rules that are likely to be omitted from WAC publication by the office of the code reviser under the authority of RCW 34.05.210, may, upon application by the agency to the office of the code reviser for an exemption, be exempted by the office of the code reviser from the form and style requirements of this chapter, other than requirements that are imposed by statute. An application for exemption must be made and approved before filing the rules.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-160 Filing after office hours. The office of the code reviser(~~'s office~~) is open for the filing of agency rule-making notices and orders from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. The office of the code reviser delegates to the Washington state patrol the authority to accept at other times the filing of orders adopting, amending, or repealing rules when the nature of the order

requires their immediate filing and/or effectiveness. To use this service, the agency may telephone the capitol security unit of the state patrol at (360) 753-2191 to arrange for receipt of the filing by the state patrol. The agency shall notify the office of the code reviser(~~'s office~~) of the filing by 9:00 a.m. on the next business day after the filing.

AMENDATORY SECTION (Amending WSR 01-20-090, filed 10/3/01, effective 11/3/01)

WAC 1-21-170 Official forms. Agencies may obtain the following official forms from the office of the code reviser(~~'s office~~) upon request:

- (1) Form CR-101 Preproposal statement of inquiry
- (2) Form CR-102 Proposed rule making
- (3) Form CR-103 Rule-making order
- (4) Form CR-104 Review of previously adopted rules
- (5) Form CR-105 Expedited rule making.

AMENDATORY SECTION (Amending WSR 97-15-035, filed 7/10/97, effective 7/27/97)

WAC 1-21-180 Rule-making activity report. To implement RCW 1.08.112, agencies shall supply the information required by RCW 1.08.112 (1)(a) through (f) and (i) by completing the appropriate parts of the CR-103 form. Agencies shall report information required by RCW 1.08.112 (1)(g) and (h) by a memorandum on agency letterhead to the office of the code reviser.

WSR 06-10-068
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 2, 2006, 11:05 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-24 WAC, General safety and health standards; WAC 296-62-08003 Hexavalent chromium; chapter 296-155 WAC, Safety standards for construction work; and chapter 296-304 WAC, Safety standards for shiprepairing, shipbuilding and shipbreaking.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Rules Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY July 4, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of

this proposal is to adopt the hexavalent chromium rule identical to the Occupational Safety and Health Administration (OSHA) rule. On February 28, 2006, OSHA issued a final standard addressing occupational exposure to hexavalent chromium, also known as Cr(VI). Cr(VI) is a natural metal used in a wide variety of industrial activities, including the manufacture of stainless steel, welding, painting and pigment application, electroplating, and other surface coating processes. The new standard covers the general industry, construction, and shipyards sectors and will protect workers against exposure to hexavalent chromium, while providing employers with adequate time to transition to the new requirements.

Reasons Supporting Proposal: The department is adding the standard to be at-least-as-effective-as OSHA.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, "Occupational Exposure to Hexavalent Chromium, Final Rule." Federal Register 71 (February 28, 2006): 10099-10385.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, (360) 902-5495.

May 2, 2006

Gary Weeks

Director

NEW SECTION

WAC 296-62-08003 Hexavalent chromium. Scope.

This standard applies to occupational exposures to chromium (VI) in all forms and compounds in general industry; construction; shipyards, marine terminals, and longshoring, except:

- Agricultural operations covered by chapter 296-307 WAC, Safety standards for agriculture.
- Exposures that occur in the application of pesticides regulated by the Washington state department of agriculture or another federal government agency (e.g., the treatment of wood with preservatives);
- Exposures to portland cement; or
- Where the employer has objective data demonstrating that a material containing chromium or a specific process, operation, or activity involving chromium cannot release dusts, fumes, or mists of chromium (VI) in concentrations at or above 0.5 (mu)g/m³ as an 8-hour time-weighted average (TWA) under any expected conditions of use.

NEW SECTION

WAC 296-62-08005 Definitions. For the purposes of this section the following definitions apply:

Action level means a concentration of airborne chromium (VI) of 2.5 micrograms per cubic meter of air (2.5 (mu)g/m³) calculated as an 8-hour time-weighted average (TWA).

Chromium (VI) (hexavalent chromium or Cr(VI)) means chromium with a valence of positive six, in any form and in any compound.

Emergency means any occurrence that results, or is likely to result, in an uncontrolled release of chromium (VI). If an incidental release of chromium (VI) can be controlled at the time of release by employees in the immediate release area, or by maintenance personnel, it is not an emergency.

Employee exposure means the exposure to airborne chromium (VI) that would occur if the employee were not using a respirator.

High-efficiency particulate air (HEPA) filter means a filter that is at least 99.97 percent efficient in removing mono-dispersed particles of 0.3 micrometers in diameter or larger.

Historical monitoring data means data from chromium (VI) monitoring conducted prior to July 31, 2006, obtained during work operations conducted under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

Objective data means information such as air monitoring data from industry-wide surveys or calculations based on the composition or chemical and physical properties of a substance demonstrating the employee exposure to chromium (VI) associated with a particular product or material or a specific process, operation, or activity. The data must reflect workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

Physician or other licensed health care professional (PLHCP) is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular health care services required by WAC 296-62-08023.

Regulated area means an area, demarcated by the employer, where an employee's exposure to airborne concentrations of chromium (VI) exceeds, or can reasonably be expected to exceed, the PEL.

NEW SECTION

WAC 296-62-08007 Permissible exposure limit (PEL). Permissible exposure limit (PEL). The employer shall ensure that no employee is exposed to an airborne concentration of chromium (VI) in excess of 5 micrograms per cubic meter of air (5 (mu)g/m³), calculated as an 8-hour time-weighted average (TWA).

NEW SECTION

WAC 296-62-08009 Exposure determination. (1) General. Each employer who has a workplace or work operation covered by this section shall determine the 8-hour TWA exposure for each employee exposed to chromium (VI). This determination shall be made in accordance with either subsection (2) or (3) of this section.

(2) Scheduled monitoring option.

(a) The employer shall perform initial monitoring to determine the 8-hour TWA exposure for each employee on

the basis of a sufficient number of personal breathing zone air samples to accurately characterize full shift exposure on each shift, for each job classification, in each work area. Where an employer does representative sampling instead of sampling all employees in order to meet this requirement, the employer shall sample the employee(s) expected to have the highest chromium (VI) exposures.

(b) If initial monitoring indicates that employee exposures are below the action level, the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.

(c) If monitoring reveals employee exposures to be at or above the action level, the employer shall perform periodic monitoring at least every six months.

(d) If monitoring reveals employee exposures to be above the PEL, the employer shall perform periodic monitoring at least every three months.

(e) If periodic monitoring indicates that employee exposures are below the action level, and the result is confirmed by the result of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(f) The employer shall perform additional monitoring when there has been any change in the production process, raw materials, equipment, personnel, work practices, or control methods that may result in new or additional exposures to chromium (VI), or when the employer has any reason to believe that new or additional exposures have occurred.

(3) Performance-oriented option. The employer shall determine the 8-hour TWA exposure for each employee on the basis of any combination of air monitoring data, historical monitoring data, or objective data sufficient to accurately characterize employee exposure to chromium (VI).

(4) Employee notification of determination results.

(a) In general industry where the exposure determination indicates that employee exposure exceeds the PEL, within fifteen working days the employer shall either post the results in an appropriate location that is accessible to all affected employees or shall notify each affected employee individually in writing of the results.

(b) In construction and shipyards, marine terminals, and longshoring where the exposure determination indicates that employee exposure exceeds the PEL, as soon as possible but not more than five working days later the employer shall either post the results in an appropriate location that is accessible to all affected employees or shall notify each affected employee individually in writing of the results.

(c) Whenever the exposure determination indicates that employee exposure is above the PEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the PEL.

(5) Accuracy of measurement. Where air monitoring is performed to comply with the requirements of this section, the employer shall use a method of monitoring and analysis that can measure chromium (VI) to within an accuracy of plus or minus twenty-five percent and can produce accurate measurements to within a statistical confidence level of ninety-five percent for airborne concentrations at or above the action level.

(6) Observation of monitoring.

(a) Where air monitoring is performed to comply with the requirements of this section, the employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to chromium (VI).

(b) When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

NEW SECTION

WAC 296-62-08011 Regulated areas.

Exemption: This section does not apply to construction, shipyards, marine terminals or longshoring.

(1) Establishment. The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of chromium (VI) is, or can reasonably be expected to be, in excess of the PEL.

(2) Demarcation. The employer shall ensure that regulated areas are demarcated from the rest of the workplace in a manner that adequately establishes and alerts employees of the boundaries of the regulated area.

(3) Access. The employer shall limit access to regulated areas to:

(a) Persons authorized by the employer and required by work duties to be present in the regulated area;

(b) Any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring procedures under WAC 296-62-08009;

(c) Any person authorized by the Washington Industrial Safety and Health Act (WISHA) or regulations issued under it to be in a regulated area.

NEW SECTION

WAC 296-62-08013 Methods of compliance. (1) Engineering and work practice controls.

(a) Except as permitted in (c) of this subsection, the employer shall use engineering and work practice controls to reduce and maintain employee exposure to chromium (VI) to or below the PEL unless the employer can demonstrate that such controls are not feasible. Wherever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer shall use them to reduce employee exposure to the lowest levels achievable, and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-08015.

Exemption: This (b) does not apply to construction, shipyards, marine terminals and longshoring.

(b) Where painting of aircraft or large aircraft parts is performed in the aerospace industry, the employer shall use engineering and work practice controls to reduce and maintain employee exposure to chromium (VI) to or below 25 (mu)g/m³ unless the employer can demonstrate that such

controls are not feasible. The employer shall supplement such engineering and work practice controls with the use of respiratory protection that complies with the requirements of WAC 296-62-08015 to achieve the PEL.

(c) Where the employer can demonstrate that a process or task does not result in any employee exposure to chromium (VI) above the PEL for thirty or more days per year (twelve consecutive months), the requirement to implement engineering and work practice controls to achieve the PEL does not apply to that process or task.

(2) Prohibition of rotation. The employer shall not rotate employees to different jobs to achieve compliance with the PEL.

NEW SECTION

WAC 296-62-08015 Respiratory protection. (1) General. The employer shall provide respiratory protection for employees during:

(a) Periods necessary to install or implement feasible engineering and work practice controls;

(b) Work operations, such as maintenance and repair activities, for which engineering and work practice controls are not feasible;

(c) Work operations for which an employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL;

(d) Work operations where employees are exposed above the PEL for fewer than thirty days per year, and the employer has elected not to implement engineering and work practice controls to achieve the PEL; or

(e) Emergencies.

(2) Respiratory protection program. Where respirator use is required by this section, the employer shall institute a respiratory protection program in accordance with chapter 296-842 WAC, Respirators.

NEW SECTION

WAC 296-62-08017 Protective work clothing and equipment. (1) Provision and use. Where a hazard is present or is likely to be present from skin or eye contact with chromium (VI), the employer shall provide appropriate personal protective clothing and equipment at no cost to employees, and shall ensure that employees use such clothing and equipment.

(2) Removal and storage.

(a) The employer shall ensure that employees remove all protective clothing and equipment contaminated with chromium (VI) at the end of the work shift or at the completion of their tasks involving chromium (VI) exposure, whichever comes first.

(b) The employer shall ensure that no employee removes chromium (VI) contaminated protective clothing or equipment from the workplace, except for those employees whose job it is to launder, clean, maintain, or dispose of such clothing or equipment.

(c) When contaminated protective clothing or equipment is removed for laundering, cleaning, maintenance, or disposal, the employer shall ensure that it is stored and trans-

ported in sealed, impermeable bags or other closed, impermeable containers.

(d) Bags or containers of contaminated protective clothing or equipment that are removed from change rooms for laundering, cleaning, maintenance, or disposal shall be labeled in accordance with the requirements of WAC 296-800-170, Employer chemical hazard communication.

(3) Cleaning and replacement.

(a) The employer shall clean, launder, repair and replace all protective clothing and equipment required by this section as needed to maintain its effectiveness.

(b) The employer shall prohibit the removal of chromium (VI) from protective clothing and equipment by blowing, shaking, or any other means that disperses chromium (VI) into the air or onto an employee's body.

(c) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with chromium (VI) of the potentially harmful effects of exposure to chromium (VI) and that the clothing and equipment should be laundered or cleaned in a manner that minimizes skin or eye contact with chromium (VI) and effectively prevents the release of airborne chromium (VI) in excess of the PEL.

NEW SECTION

WAC 296-62-08019 Hygiene areas and practices. (1) General.

(a) General industry, shipyards, marine terminals and longshoring. Where protective clothing and equipment is required, the employer shall provide change rooms in conformance with WAC 296-800-230, Sanitation and hygiene facilities and procedures. Where skin contact with chromium (VI) occurs, the employer shall provide washing facilities in conformance with WAC 296-800-230, Sanitation and hygiene facilities and procedures. Eating and drinking areas provided by the employer shall also be in conformance with WAC 296-800-230, Sanitation and hygiene facilities and procedures.

(b) Construction. Where protective clothing and equipment is required, the employer shall provide change rooms in conformance with WAC 296-155-17321, Hygiene facilities and practices. Where skin contact with chromium (VI) occurs, the employer shall provide washing facilities in conformance with WAC 296-155-17321, Hygiene facilities and practices. Eating and drinking areas provided by the employer shall also be in conformance with WAC 296-155-17321, Hygiene facilities and practices.

(2) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for protective clothing and equipment and for street clothes, and that these facilities prevent cross-contamination.

(3) Washing facilities.

(a) The employer shall provide readily accessible washing facilities capable of removing chromium (VI) from the skin, and shall ensure that affected employees use these facilities when necessary.

(b) The employer shall ensure that employees who have skin contact with chromium (VI) wash their hands and faces at the end of the work shift and prior to eating, drinking,

smoking, chewing tobacco or gum, applying cosmetics, or using the toilet.

(4) Eating and drinking areas.

(a) Whenever the employer allows employees to consume food or beverages at a worksite where chromium (VI) is present, the employer shall ensure that eating and drinking areas and surfaces are maintained as free as practicable of chromium (VI).

(b) The employer shall ensure that employees do not enter eating and drinking areas with protective work clothing or equipment unless surface chromium (VI) has been removed from the clothing and equipment by methods that do not disperse chromium (VI) into the air or onto an employee's body.

(5) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in areas where skin or eye contact with chromium (VI) occurs; or carry the products associated with these activities, or store such products in these areas.

NEW SECTION

WAC 296-62-08021 Housekeeping.

Exemption: This section does not apply to construction, shipyards, marine terminals and longshoring.

(1) General. The employer shall ensure that:

(a) All surfaces are maintained as free as practicable of accumulations of chromium (VI).

(b) All spills and releases of chromium (VI) containing material are cleaned up promptly.

(2) Cleaning methods.

(a) The employer shall ensure that surfaces contaminated with chromium (VI) are cleaned by HEPA-filter vacuuming or other methods that minimize the likelihood of exposure to chromium (VI).

(b) Dry shoveling, dry sweeping, and dry brushing may be used only where HEPA-filtered vacuuming or other methods that minimize the likelihood of exposure to chromium (VI) have been tried and found not to be effective.

(c) The employer shall not allow compressed air to be used to remove chromium (VI) from any surface unless:

(i) The compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air; or

(ii) No alternative method is feasible.

(d) The employer shall ensure that cleaning equipment is handled in a manner that minimizes the reentry of chromium (VI) into the workplace.

(3) Disposal. The employer shall ensure that:

(a) Waste, scrap, debris, and any other materials contaminated with chromium (VI) and consigned for disposal are collected and disposed of in sealed, impermeable bags or other closed, impermeable containers.

(b) Bags or containers of waste, scrap, debris, and any other materials contaminated with chromium (VI) that are consigned for disposal are labeled in accordance with the requirements of WAC 296-800-170, Employer chemical hazard communication.

NEW SECTION

WAC 296-62-08023 Medical surveillance. (1) General.

(a) The employer shall make medical surveillance available at no cost to the employee, and at a reasonable time and place, for all employees:

(i) Who are or may be occupationally exposed to chromium (VI) at or above the action level for thirty or more days a year;

(ii) Experiencing signs or symptoms of the adverse health effects associated with chromium (VI) exposure; or

(iii) Exposed in an emergency.

(b) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a PLHCP.

(2) Frequency. The employer shall provide a medical examination:

(a) Within thirty days after initial assignment, unless the employee has received a chromium (VI) related medical examination that meets the requirements of this paragraph within the last twelve months;

(b) Annually;

(c) Within thirty days after a PLHCP's written medical opinion recommends an additional examination;

(d) Whenever an employee shows signs or symptoms of the adverse health effects associated with chromium (VI) exposure;

(e) Within thirty days after exposure during an emergency which results in an uncontrolled release of chromium (VI); or

(f) At the termination of employment, unless the last examination that satisfied the requirements of WAC 296-62-08023, Medical surveillance was less than six months prior to the date of termination.

(3) Contents of examination. A medical examination consists of:

(a) A medical and work history, with emphasis on: Past, present, and anticipated future exposure to chromium (VI); any history of respiratory system dysfunction; any history of asthma, dermatitis, skin ulceration, or nasal septum perforation; and smoking status and history;

(b) A physical examination of the skin and respiratory tract; and

(c) Any additional tests deemed appropriate by the examining PLHCP.

(4) Information provided to the PLHCP. The employer shall ensure that the examining PLHCP has a copy of this standard, and shall provide the following information:

(a) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to chromium (VI);

(b) The employee's former, current, and anticipated levels of occupational exposure to chromium (VI);

(c) A description of any personal protective equipment used or to be used by the employee, including when and for how long the employee has used that equipment; and

(d) Information from records of employment-related medical examinations previously provided to the affected employee, currently within the control of the employer.

(5) PLHCP's written medical opinion.

(a) The employer shall obtain a written medical opinion from the PLHCP, within thirty days for each medical examination performed on each employee, which contains:

(i) The PLHCP's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to chromium (VI);

(ii) Any recommended limitations upon the employee's exposure to chromium (VI) or upon the use of personal protective equipment such as respirators;

(iii) A statement that the PLHCP has explained to the employee the results of the medical examination, including any medical conditions related to chromium (VI) exposure that require further evaluation or treatment, and any special provisions for use of protective clothing or equipment.

(b) The PLHCP shall not reveal to the employer specific findings or diagnoses unrelated to occupational exposure to chromium (VI).

(c) The employer shall provide a copy of the PLHCP's written medical opinion to the examined employee within two weeks after receiving it.

NEW SECTION

WAC 296-62-08025 Communication of chromium (VI) hazards to employees. (1) General. In addition to the requirements of WAC 296-800-170, Employer chemical hazard communication, employers shall comply with the following requirements.

(2) Employee information and training.

(a) The employer shall ensure that each employee can demonstrate knowledge of at least the following:

(i) The contents of this section; and

(ii) The purpose and a description of the medical surveillance program required by (a)(i) of this subsection.

(b) The employer shall make a copy of this section readily available without cost to all affected employees.

NEW SECTION

WAC 296-62-08027 Recordkeeping. (1) Air monitoring data.

(a) The employer shall maintain an accurate record of all air monitoring conducted to comply with the requirements of this section.

(b) This record shall include at least the following information:

(i) The date of measurement for each sample taken;

(ii) The operation involving exposure to chromium (VI) that is being monitored;

(iii) Sampling and analytical methods used and evidence of their accuracy;

(iv) Number, duration, and the results of samples taken;

(v) Type of personal protective equipment, such as respirators worn; and

(vi) Name, Social Security number, and job classification of all employees represented by the monitoring, indicating which employees were actually monitored.

(c) The employer shall ensure that exposure records are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(2) Historical monitoring data.

(a) Where the employer has relied on historical monitoring data to determine exposure to chromium (VI), the employer shall establish and maintain an accurate record of the historical monitoring data relied upon.

(b) The record shall include information that reflects the following conditions:

(i) The data were collected using methods that meet the accuracy requirements of WAC 296-62-08009(5);

(ii) The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which exposure is being determined;

(iii) The characteristics of the chromium (VI) containing material being handled when the historical monitoring data were obtained are the same as those on the job for which exposure is being determined;

(iv) Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which exposure is being determined; and

(v) Other data relevant to the operations, materials, processing, or employee exposures covered by the exception.

(c) The employer shall ensure that historical exposure records are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(3) Objective data.

(a) The employer shall maintain an accurate record of all objective data relied upon to comply with the requirements of this section.

(b) This record shall include at least the following information:

(i) The chromium (VI) containing material in question;

(ii) The source of the objective data;

(iii) The testing protocol and results of testing, or analysis of the material for the release of chromium (VI);

(iv) A description of the process, operation, or activity and how the data support the determination; and

(v) Other data relevant to the process, operation, activity, material, or employee exposures.

(c) The employer shall ensure that objective data are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

(4) Medical surveillance.

(a) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under WAC 296-62-08023, Medical surveillance.

(b) The record shall include the following information about the employee:

(i) Name and Social Security number;

(ii) A copy of the PLHCP's written opinions;

(iii) A copy of the information provided to the PLHCP as required by WAC 296-62-08023(4).

(c) The employer shall ensure that medical records are maintained and made available in accordance with chapter 296-802 WAC, Employee medical and exposure records.

NEW SECTION

WAC 296-62-08029 Dates. (1) For employers with twenty or more employees, all obligations of this section, except engineering controls required by WAC 296-62-08013, commence November 27, 2006.

(2) For employers with nineteen or fewer employees, all obligations of this section, except engineering controls required by WAC 296-62-08013, commence May 30, 2007.

(3) For all employers, engineering controls required by WAC 296-62-08013 shall be implemented no later than May 31, 2010.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-680 Welding, cutting, and brazing. You are required to protect employees from exposure to hexavalent chromium during the stainless steel welding process. See WAC 296-62-08003, Hexavalent chromium for specific criteria.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-155-400 Gas welding and cutting. (1) Transporting, moving, and storing compressed gas cylinders.

(a) Valve protection caps shall be in place and secured.

(b) When cylinders are hoisted, they shall be secured on a cradle, slingboard, or pallet. They shall not be hoisted or transported by means of magnets or choker slings.

(c) Cylinders shall be moved by tilting and rolling them on their bottom edges. They shall not be intentionally dropped, struck, or permitted to strike each other violently.

(d) When cylinders are transported by powered vehicles, they shall be secured in a vertical position.

(e) Valve protection caps shall not be used for lifting cylinders from one vertical position to another. Bars shall not be used under valves or valve protection caps to pry cylinders loose when frozen. Warm, not boiling, water shall be used to thaw cylinders loose.

(f) Unless cylinders are firmly secured on a special carrier intended for this purpose, regulators shall be removed and valve protection caps put in place before cylinders are moved.

(g) A suitable cylinder truck, chain, or other steadying device shall be used to keep cylinders from being knocked over while in use. Such cylinders are not considered to be "in storage."

(h) When a job is finished, when cylinders are empty or when cylinders are moved at any time, the cylinder valve shall be closed.

(i) Compressed gas cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(j) Oxygen. Oxygen cylinders in storage shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet or by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(2) Placing cylinders.

(a) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag, or flame will not reach them. When this is impractical, fire resistant shields shall be provided.

(b) Cylinders shall be placed where they cannot become part of an electrical circuit. Electrodes shall not be struck against a cylinder to strike an arc.

(c) Fuel gas cylinders shall be placed with valve end up whenever they are in use. They shall not be placed in a location where they would be subject to open flame, hot metal, or other sources of artificial heat.

(d) Cylinders containing oxygen or acetylene or other fuel gas shall not be taken into confined spaces.

(3) Treatment of cylinders.

(a) Cylinders, whether full or empty, shall not be used as rollers or supports.

(b) No person other than the gas supplier shall attempt to mix gases in a cylinder. No one except the owner of the cylinder or person authorized by the owner, shall refill a cylinder. No one shall use a cylinder's contents for purposes other than those intended by the supplier. All cylinders used shall meet the department of transportation requirements, Specification for Cylinders, (49 CFR Part 178, Subpart C).

(c) No damaged or defective cylinder shall be used.

(4) Use of fuel gas. The employer shall thoroughly instruct employees in the safe use of fuel gas, as follows:

(a) Before a regulator to a cylinder valve is connected, the valve shall be opened slightly and closed immediately. (This action is generally termed "cracking" and is intended to clear the valve of dust or dirt that might otherwise enter the regulator.) The person cracking the valve shall stand to one side of the outlet, not in front of it. The valve of a fuel gas cylinder shall not be cracked where the gas would reach welding work, sparks, flame, or other possible sources of ignition.

(b) The cylinder valve shall always be opened slowly to prevent damage to the regulator. For quick closing, valves on fuel gas cylinders shall not be opened more than 1 1/2 turns. When a special wrench is required, it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel gas flow can be shut off quickly in case of an emergency. In the case of manifolded or coupled cylinders, at least one such wrench shall always be available for immediate use. Nothing shall be placed on top of a fuel gas cylinder, when in use, which may damage the safety device or interfere with the quick closing of the valve.

(c) Fuel gas shall not be used from cylinders through torches or other devices which are equipped with shutoff valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

(d) Before a regulator is removed from a cylinder valve, the cylinder valve shall always be closed and the gas released from the regulator.

(e) If, when the valve on a fuel gas cylinder is opened, there is found to be a leak around the valve stem, the valve shall be closed and the gland nut tightened. If this action does not stop the leak, the use of the cylinder shall be discontinued, and it shall be properly tagged and removed from the work area. In the event that fuel gas should leak from the cylinder valve, rather than from the valve stem, and the gas can-

not be shut off, the cylinder shall be properly tagged and removed from the work area. If a regulator attached to a cylinder valve will effectively stop a leak through the valve seat, the cylinder need not be removed from the work area.

(f) If a leak should develop at a fuse plug or other safety device, the cylinder shall be removed from the work area.

(g) Cylinders not having fixed hand wheels shall have keys, handles, or nonadjustable wrenches on valve stems while in service. In multiple cylinder installations one and only one key or handle is required for each manifold.

(5) Fuel gas and oxygen manifolds.

(a) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least 1-inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(b) Fuel gas and oxygen manifolds shall be placed in safe, well ventilated, and accessible locations. They shall not be located within enclosed spaces.

(c) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(d) When not in use, manifold and header hose connections shall be capped.

(e) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(6) Hose.

(a) Fuel gas hose and oxygen hose shall be easily distinguishable from each other. The contrast may be made by different colors or by surface characteristics readily distinguishable by the sense of touch. Oxygen and fuel gas hoses shall not be interchangeable. A single hose having more than one gas passage shall not be used.

(b) When parallel sections of oxygen and fuel gas hose are taped together, not more than 4 inches out of 12 inches shall be covered by tape.

(c) All hose in use, carrying acetylene, oxygen, natural or manufactured fuel gas, or any gas or substance which may ignite or enter into combustion, or be in any way harmful to employees, shall be inspected at the beginning of each working shift. Defective hose shall be removed from service.

(d) Hose which has been subject to flashback, or which shows evidence of severe wear or damage, shall be tested to twice the normal pressure to which it is subject, but in no case less than 300 p.s.i. Defective hose, or hose in doubtful condition, shall not be used.

(e) Hose couplings shall be of the type that cannot be unlocked or disconnected by means of a straight pull without rotary motion.

(f) Boxes used for the storage of gas hose shall be ventilated.

(g) Hoses, cables, and other equipment shall be kept clear of passageways, ladders and stairs.

(7) Torches.

(a) Clogged torch tip openings shall be cleaned with suitable cleaning wires, drills, or other devices designed for such purpose.

(b) Torches in use shall be inspected at the beginning of each working shift for leaking shutoff valves, hose couplings, and tip connections. Defective torches shall not be used.

(c) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

(8) Regulators and gauges. Oxygen and fuel gas pressure regulators, including their related gauges, shall be in proper working order while in use.

(9) Oil and grease hazards. Oxygen cylinders and fittings shall be kept away from oil or grease. Cylinders, cylinder caps and valves, couplings, regulators, hose, and apparatus shall be kept free from oil or greasy substances and shall not be handled with oily hands or gloves. Oxygen shall not be directed at oily surfaces, greasy clothes, or within a fuel oil or other storage tank or vessel.

(10) Additional rules. For additional details not covered in this Part, applicable portions of American National Standards Institute, Z49.1-1973, Safety in Welding and Cutting, shall apply.

You are also required to protect employees from exposure to hexavalent chromium during the stainless steel welding process. See WAC 296-62-08003, Hexavalent chromium for specific criteria.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-040 Welding, cutting and heating—Scope and application. All sections of this chapter which include WAC 296-304-040 in the section number apply to welding, cutting and heating.

You are also required to protect employees from exposure to hexavalent chromium during the stainless steel welding process. See WAC 296-62-08003, Hexavalent chromium for specific criteria.

WSR 06-10-091

EXPEDITED RULES

DEPARTMENT OF REVENUE

[Filed May 3, 2006, 11:25 a.m.]

Title of Rule and Other Identifying Information: WAC 458-61A-207 Bankruptcy, this rule explains the exemption from real state excise tax for transfers of real property under confirmed chapter 11 or confirmed chapter 12 bankruptcy plans.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Margaret J. Partlow, Department of Revenue, P.O. Box 47453, Olympia, WA

98504-7453, fax (360) 586-5543, e-mail margaretpa@dor.wa.gov, AND RECEIVED BY July 5, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing minor editing changes to the rule to clarify existing language of the rule. These editing changes do not change the effect of the existing rule. A copy of the proposed rule is available for viewing and printing on our web site at <http://dor.wa.gov/content/laws/RuleMaking/default.aspx>.

Reasons Supporting Proposal: To reduce potential confusion.

Statutory Authority for Adoption: RCW 82.32.300, 82.45.150, and 82.01.060(2).

Statute Being Implemented: Chapter 82.45 RCW as it applies to bankruptcy situations.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret J. Partlow, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6123; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #100, Olympia, WA, (360) 570-3230.

May 2, 2006

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-207 Bankruptcy. (1) Introduction.

The real estate excise tax does not apply to the conveyance of real property by a trustee in bankruptcy or debtor in possession made (~~(under either a)~~ after the plan is confirmed under a chapter 11 (~~(plan)~~) or (~~(a confirmed)~~) chapter 12 plan. Federal law preempts real estate excise tax on these transfers.

(2) **Documentation requirements.** A copy of the Order of Confirmation or an extract from the Confirmed Bankruptcy Plan, showing the date the bankruptcy plan was confirmed, the court case cause number, and the bankruptcy chapter number must be attached to the real estate excise affidavit provided to the department.