

WSR 07-06-042
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed March 1, 2007, 2:40 p.m., effective April 1, 2007]

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

Purpose: The new and amended sections clarify and update policies for dental-related services for clients through age twenty; ensure that department policies are applied correctly and equitably; replace the terms "medical assistance administration" and "MAA" with "the department"; update policy regarding prior authorization requirements; clarify policy on covered versus noncovered benefits; and clarify additional benefits and limitations associated with those services for clients through age twenty; clarify policy for the ABCD program; and repeal WAC 388-535-1200, 388-535-1230, and 388-535-1240 and incorporate updated policy into new sections. Clients and dental providers will be able to identify the requirements and criteria that must be met in order to obtain covered dental-related services.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-535-1200, 388-535-1230 and 388-535-1240; and amending WAC 388-535-1080, 388-535-1100, 388-535-1220, and 388-535-1245.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500, 74.09.520.

Adopted under notice filed as WSR 06-24-069 (part 1 of 4), 06-24-068 (part 2 of 4), 06-24-071 (part 3 of 4), and 06-24-070 (part 4 of 4) on December 4, 2006.

Changes Other than Editing from Proposed to Adopted Version: **Note: Strikeouts and underlines indicate language deleted or added since the proposal.**

WAC 388-535-1079 Dental-related services for clients through age twenty—General. (1)(d) Are documented in the client's record in accordance with chapter 388-502 WAC;

(~~d~~) (e) Are within...;

(~~e~~) (f) Are consistent...;

(~~f~~) (g) Are reasonable...; and

(~~g~~) (h) Are listed...

(2) Under the Early Periodic Screening and Diagnostic Treatment (EPSDT) program, clients ages twenty and younger may be eligible for the dental-related services listed as noncovered in ~~WAC 388-535-1100, if the services include those medically necessary services and other measures provided to correct or ameliorate conditions discovered during a screening performed under the EPSDT program.~~

WAC 388-535-1080 Covered dental-related services for clients through age twenty—Diagnostic. (1)(a) Oral health evaluations and assessments. ~~The services must be documented in the client's record in accordance with WAC 388-502-0020.~~

(2) **Radiographs (X-rays).** The department: ... (f) Covers a maximum of ~~two~~ four bitewing radiographs once every twelve months for clients through age eleven.

WAC 388-535-1082 Covered dental-related services for clients through age twenty—Preventive services. (1)(a) Which includes scaling and polishing... once every six months for clients through age ~~eighteen~~ twenty. (~~b~~) Which

includes scaling and polishing procedures to remove coronal plaque, calculus, and stains when performed on transitional or permanent dentition, once every twelve months for clients ages ~~nineteen through twenty~~.

(~~e~~) (~~b~~) Only when the service is performed six months after periodontal scaling and root planing, or periodontal maintenance services, for clients ages thirteen through ~~eighteen~~ twenty.

(~~d~~) ~~Only when the service is performed twelve months after periodontal scaling and root planing, or periodontal maintenance services for clients ages nineteen through twenty.~~

(~~e~~) (~~c~~) Only when not performed... scaling and root planing.

(~~f~~) (~~d~~) For clients of the division of developmental disabilities...

(4)(~~d~~) ~~Sealants only if evidence of occlusal or interproximal decay has not penetrated to the dentoenamel junction (DEJ).~~ Sealants on noncarious teeth or teeth with incipient caries.

WAC 388-535-1084 Covered dental-related services for clients through age twenty—Restorative services. (3) **Amalgam restorations for primary posterior teeth only.** The department: (~~a~~) ~~Covers amalgam restorations for a maximum of two surfaces for a primary posterior tooth~~ first molar and a maximum of three surfaces for a primary second molar. (See subsection (9)(c) of this section for restorations for a primary posterior tooth requiring a ~~three or more surface restoration.~~ additional surfaces.) ~~The department does not pay for additional amalgam restorations.~~ (~~b~~) ~~Does not pay for additional amalgam or composite restoration on the same tooth after two surfaces.~~

(6)(~~b~~) Resin-based composite restorations for a maximum of two surfaces for a primary ~~posterior tooth~~ first molar and a maximum of three surfaces for a primary second molar. (See subsection (9)(c) of this subsection for restorations for a primary posterior tooth requiring a ~~three or more surface restoration~~ additional surfaces.) The department does not pay for additional composite ~~or amalgam~~ restorations on the same tooth ~~after two surfaces.~~

(6)(~~c~~) Glass ionomer restorations only for primary teeth, and only for clients ages ~~four~~ five and younger...

(9)(~~c~~) Prefabricated stainless steel crowns for primary posterior teeth once every three years without prior authorization if: ~~decay involves three or more surfaces, or if the tooth had a pulpotomy.~~ (i) Decay involves three or more surfaces for a primary first molar; (ii) Decay involves four or more surfaces for a primary second molar; or (iii) The tooth had a pulpotomy.

WAC 388-535-1090 Covered dental-related services for clients through age twenty—Prosthodontics (removable). (1)(~~f~~) Requires a provider to submit the following with a prior authorization request for removable prosthetics for a client residing in a ~~nursing home, group home, or other facility~~ an alternate living facility (ALF) as defined in WAC 388-513-1301 or in a nursing facility.

WAC 388-535-1098 Covered dental-related services for clients through age twenty—Adjunctive general services. (5)(a)(ii) Clients ages... when prior authorized; ~~and~~

(iii) Clients of the division of developmental disabilities according to WAC 388-535-1099; and

(iv) Clients who reside in an alternate living facility (ALF) as defined in WAC 388-513-1301 or in a nursing facility.

WAC 388-535-1100 Dental-related services not covered for clients through age twenty. (1)(a) The dental-related services described in subsection (2) of this section unless the services are covered ~~include those medically necessary services and other measures provided to correct or ameliorate conditions discovered during a screening performed~~ under the early periodic screening, diagnosis and treatment (EPSDT) program. See WAC 388-534-0100 for information about the EPSDT program.

A final cost-benefit analysis is available by contacting Dr. John Davis, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1748, fax (360) 568-1590, e-mail davisjs@dshs.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 11, Amended 4, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 11, Amended 4, Repealed 3.

Date Adopted: February 27, 2007.

Robin Arnold-Williams
Secretary

NEW SECTION

WAC 388-535-1079 Dental-related services for clients through age twenty—General. (1) Subject to coverage limitations, the department pays for dental-related services and procedures provided to clients through age twenty when the services and procedures:

- (a) Are within the scope of an eligible client's medical care program;
- (b) Are medically necessary;
- (c) Meet the department's prior authorization requirements, if any;
- (d) Are documented in the client's record in accordance with chapter 388-502 WAC;
- (e) Are within accepted dental or medical practice standards;
- (f) Are consistent with a diagnosis of dental disease or condition;
- (g) Are reasonable in amount and duration of care, treatment, or service; and
- (h) Are listed as covered in the department's published rules, billing instructions and fee schedules.

(2) Under the Early Periodic Screening and Diagnostic Treatment (EPSDT) program, clients ages twenty and younger may be eligible for dental-related services listed as noncovered.

(3) Clients who are eligible for services through the division of developmental disabilities may receive dental-related services according to WAC 388-535-1099.

(4) The department evaluates a request for dental-related services:

- (a) That are in excess of the dental program's limitations or restrictions, according to WAC 388-501-0169; and
- (b) That are listed as noncovered according to WAC 388-501-0160.

AMENDATORY SECTION (Amending WSR 03-19-078, filed 9/12/03, effective 10/13/03)

WAC 388-535-1080 Covered dental-related services (~~—Children~~) for clients through age twenty—Diagnostic. (~~(1) The medical assistance administration (MAA) pays for covered dental and dental-related services for children listed in this section only when they are:~~

- (a) ~~Within the scope of an eligible client's medical care program;~~
- (b) ~~Medically necessary; and~~
- (c) ~~Within accepted dental or medical practice standards and are:~~
 - (i) ~~Consistent with a diagnosis of dental disease or condition; and~~
 - (ii) ~~Reasonable in amount and duration of care, treatment, or service.~~

(2) ~~MAA covers the following dental-related services for eligible children:~~

- (a) ~~Medically necessary services for the identification of dental problems or the prevention of dental disease, subject to the limitations of this chapter;~~
- (b) ~~Oral health evaluations and assessments, which must be documented in the client's file according to WAC 388-502-0020, as follows:~~

(i) ~~MAA allows a comprehensive oral evaluation once per provider as an initial examination, and it must include:~~

- (A) ~~An oral health and developmental history;~~
- (B) ~~An assessment of physical and oral health status; and~~
- (C) ~~Health education, including anticipatory guidance.~~

(ii) ~~MAA allows a periodic oral evaluation once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation.~~

(iii) ~~MAA allows a limited oral evaluation only when the provider performing the limited oral evaluation is not providing prescheduled dental services for the client. The limited oral evaluation must be:~~

(A) ~~To provide limited or emergent services for a specific dental problem; or~~

(B) ~~To provide an evaluation for a referral.~~

(c) ~~Radiographs as follows:~~

(i) ~~Intraoral (complete series, including bitewings), allowed once in a three-year period;~~

(ii) ~~Bitewings, total of four allowed every twelve months; and~~

(iii) Panoramic, for oral surgical purposes only, as follows:

(A) Not allowed with an intraoral complete series; and

(B) Allowed once in a three-year period, except for preoperative or postoperative surgery cases. Preoperative radiographs must be provided within fourteen days prior to surgery, and postoperative radiographs must be provided within thirty days after surgery.

(d) Fluoride treatment (either gel or varnish, but not both) as follows for clients through age eighteen (additional applications require prior authorization):

(i) Topical application of fluoride gel, once every six months; or

(ii) Topical application of fluoride varnish, up to three times in a twelve-month period;

(iii) See subsection (3) of this section for clients of the division of developmental disabilities.

(e) Sealants for children only, once per tooth in a three-year period for:

(i) The occlusal surfaces of:

(A) Permanent teeth two, three, fourteen, fifteen, eighteen, nineteen, thirty, and thirty-one only; and

(B) Primary teeth A, B, I, J, K, L, S, and T only.

(ii) The lingual pits of teeth seven and ten; and

(iii) Teeth with no decay.

(f) Prophylaxis treatment, which is allowed:

(i) Once every six months for children age eight through eighteen;

(ii) Only as a component of oral hygiene instruction for children through age seven; and

(iii) For clients of the division of developmental disabilities, see subsection (3) of this section.

(g) Space maintainers, for children through age eighteen only, as follows:

(i) Fixed (unilateral type), one per quadrant;

(ii) Fixed (bilateral type), one per arch; and

(iii) Re cementation of space maintainer, once per quadrant or arch.

(h) Amalgam or composite restorations, as follows:

(i) Once in a two-year period; and

(ii) For the same surface of the same tooth.

(i) Crowns as described in WAC 388-535-1230, Crowns;

(j) Restoration of teeth and maintenance of dental health, subject to limitations of WAC 388-535-1100 and as follows:

(i) Multiple restorations involving the proximal and occlusal surfaces of the same tooth are considered to be a multisurface restoration, and are reimbursed as such; and

(ii) Proximal restorations that do not involve the incisal angle in the anterior tooth are considered to be a two-surface restoration, and are reimbursed as such;

(k) Endodontic (root canal) therapies for permanent teeth except for wisdom teeth;

(l) Therapeutic pulpotomies, once per tooth, on primary teeth only;

(m) Pulp vitality test, as follows:

(i) Once per day (not per tooth);

(ii) For diagnosis of emergency conditions only; and

(iii) Not allowed when performed on the same date as any other procedure, with the exception of an emergency examination or palliative treatment.

(n) Periodontal scaling and root planing as follows:

(i) See subsection (3) of this section for clients of the division of developmental disabilities;

(ii) Only when the client has radiographic (X-ray) evidence of periodontal disease. There must be supporting documentation, including complete periodontal charting and a definitive periodontal diagnosis;

(iii) Once per quadrant in a twenty-four month period; and

(iv) Not allowed when performed on the same date of service as prophylaxis, periodontal maintenance, gingivectomy, or gingivoplasty.

(o) Periodontal maintenance as follows:

(i) See subsection (3) of this section for clients of the division of developmental disabilities;

(ii) Only when the client has radiographic (X-ray) evidence of periodontal disease. There must be supporting documentation, including complete periodontal charting and a definitive periodontal diagnosis;

(iii) Once per full mouth in a twelve-month period; and

(iv) Not allowed when performed on the same date of service as prophylaxis, periodontal sealing, gingivectomy, or gingivoplasty.

(p) Complex orthodontic treatment for severe handicapped dental needs as specified in chapter 388-535A WAC, Orthodontic services;

(q) Occlusal orthotic appliance for temporomandibular joint disorder (TMJ/TMD) or bruxism, one in a two-year period;

(r) Medically necessary oral surgery when coordinated with the client's managed care plan (if any);

(s) Dental services or treatment necessary for the relief of pain and infections, including removal of symptomatic wisdom teeth. MAA does not cover routine removal of asymptomatic wisdom teeth without justifiable medical indications;

(t) Behavior management for clients through age eighteen only, whose documented behavior requires the assistance of more than one additional dental professional staff to protect the client from self-injury during treatment. See subsection (3) of this section for clients of the division of developmental disabilities.

(u) Nitrous oxide for children through age eighteen only, when medically necessary. See subsection (3) of this section for clients of the division of developmental disabilities.

(v) Professional visits, as follows:

(i) Bedside call at a nursing facility or residence when requested by the client or the client's surrogate decision maker as defined in WAC 388-97-055, or when a referral for services is made by the attending physician, the director of nursing, or the nursing facility supervisor, as appropriate; allowed once per day (not per client and not per facility), per provider.

(ii) Hospital call, including emergency care, allowed one per day.

(w) Emergency palliative treatment, as follows:

(i) Allowed only when no other definitive treatment is performed on the same day; and

(ii) Documentation must include tooth designation and a brief description of the service.

(3) For clients of the division of developmental disabilities, MAA allows services as follows:

- (a) Fluoride application, either varnish or gel, allowed three times per calendar year;
- (b) Prophylaxis, allowed three times per calendar year;
- (c) Periodontal sealing and root planing, allowed once every six months;
- (d) Periodontal maintenance, allowed three times every twelve months;
- (e) Nitrous oxide;
- (f) Behavior management that requires the assistance of one additional dental professional staff; and
- (g) Panoramic radiographs, with documentation that behavior management is required.

(4) MAA covers medically necessary services provided in a hospital under the direction of a physician or dentist for:

- (a) The care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization; and
- (b) Short stays when the procedure cannot be done in an office setting. See WAC 388-550-1100(6), Hospital coverage.

(5) MAA covers anesthesia for medically necessary services as follows:

- (a) The anesthesia must be administered by:
 - (i) An oral surgeon;
 - (ii) An anesthesiologist;
 - (iii) A dental anesthesiologist;
 - (iv) A certified registered nurse anesthetist (CRNA); or
 - (v) A general dentist who has a current conscious sedation permit from the department of health (DOH).
- (b) MAA pays for anesthesia services according to WAC 388-535-1350.

(6) For clients residing in nursing facilities or group homes:

- (a) Dental services must be requested by the client or a referral for services made by the attending physician, the director of nursing or the nursing facility supervisor, or the client's legal guardian;
- (b) Mass screening for dental services of clients residing in a facility is not permitted; and
- (c) Nursing facilities must provide dental-related necessary services according to WAC 388-97-012, Nursing facility care.

(7) A request to exceed stated limitations or other restrictions on covered services is called a limitation extension (LE), which is a form of prior authorization. MAA evaluates and approves requests for LE for dental-related services when medically necessary, under the provisions of WAC 388-501-0165)) The department covers medically necessary dental-related diagnostic services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) Clinical oral evaluations. The department covers:

- (a) Oral health evaluations and assessments.
- (b) Periodic oral evaluations as defined in WAC 388-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation.
- (c) Limited oral evaluations as defined in WAC 388-535-1050, only when the provider performing the limited oral

evaluation is not providing routine scheduled dental services for the client. The limited oral evaluation:

- (i) Must be to evaluate the client for a:
 - (A) Specific dental problem or oral health complaint;
 - (B) Dental emergency; or
 - (C) Referral for other treatment.
- (ii) When performed by a dentist, is limited to the initial examination appointment. The department does not cover any additional limited examination by a dentist for the same client until three months after a removable prosthesis has been seated.

(d) Comprehensive oral evaluations as defined in WAC 388-535-1050, once per client, per provider or clinic, as an initial examination. The department covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years.

(e) Limited visual oral assessments as defined in WAC 388-535-1050, up to two per client, per year, per provider only when the assessment is:

- (i) Not performed in conjunction with other clinical oral evaluation services;
- (ii) Performed to determine the need for sealants or fluoride treatment and/or when triage services are provided in settings other than dental offices or clinics; and
- (iii) Provided by a licensed dentist or licensed dental hygienist.

(2) Radiographs (X-rays). The department:

(a) Covers radiographs that are of diagnostic quality, dated, and labeled with the client's name. The department requires original radiographs to be retained by the provider as part of the client's dental record, and duplicate radiographs to be submitted with prior authorization requests, or when copies of dental records are requested.

(b) Uses the prevailing standard of care to determine the need for dental radiographs.

(c) Covers an intraoral complete series (includes four bitewings), once in a three-year period only if the department has not paid for a panoramic radiograph for the same client in the same three-year period.

(d) Covers periapical radiographs that are not included in a complete series. Documentation supporting the medical necessity for these must be included in the client's record.

(e) Covers an occlusal intraoral radiograph once in a two-year period. Documentation supporting the medical necessity for these must be included in the client's record.

(f) Covers a maximum of four bitewing radiographs once every twelve months for clients through age eleven.

(g) Covers a maximum of four bitewing radiographs once every twelve months for clients ages twelve through twenty.

(h) Covers panoramic radiographs in conjunction with four bitewings, once in a three-year period, only if the department has not paid for an intraoral complete series for the same client in the same three-year period.

(i) May cover panoramic radiographs for preoperative or postoperative surgery cases more than once in a three-year period, only on a case-by-case basis and when prior authorized.

(j) Covers cephalometric film.

(i) For orthodontics, as described in chapter 388-535A WAC: or

(ii) Only on a case-by-case basis and when prior authorized.

(k) Covers radiographs not listed as covered in this subsection, only on a case-by-case basis and when prior authorized.

(l) Covers oral and facial photographic images, only on a case-by-case basis and when requested by the department.

(3) Tests and examinations. The department covers:

(a) One pulp vitality test per visit (not per tooth):

(i) For diagnosis only during limited oral evaluations: and

(ii) When radiographs and/or documented symptoms justify the medical necessity for the pulp vitality test.

(b) Diagnostic casts other than those included in an orthodontic case study, on a case-by-case basis, and when requested by the department.

NEW SECTION

WAC 388-535-1082 Covered dental-related services for clients through age twenty—Preventive services. The department covers medically necessary dental-related preventive services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Dental prophylaxis.** The department covers prophylaxis:

(a) Which includes scaling and polishing procedures to remove coronal plaque, calculus, and stains when performed on primary, transitional, or permanent dentition, once every six months for clients through age twenty.

(b) Only when the service is performed six months after periodontal scaling and root planing, or periodontal maintenance services, for clients ages thirteen through twenty.

(c) Only when not performed on the same date of service as periodontal scaling and root planing, periodontal maintenance, gingivectomy or gingivoplasty.

(d) For clients of the division of developmental disabilities according to WAC 388-535-1099.

(2) **Topical fluoride treatment.** The department covers:

(a) Fluoride varnish, rinse, foam or gel for clients ages six and younger, up to three times within a twelve-month period.

(b) Fluoride varnish, rinse, foam or gel for clients ages seven through eighteen, up to two times within a twelve-month period.

(c) Fluoride varnish, rinse, foam or gel, up to three times within a twelve-month period during orthodontic treatment.

(d) Fluoride rinse, foam or gel for clients ages nineteen through twenty, once within a twelve-month period.

(e) Additional topical fluoride applications only on a case-by-case basis and when prior authorized.

(f) Topical fluoride treatment for clients of the division of developmental disabilities according to WAC 388-535-1099.

(3) **Oral hygiene instruction.** The department covers:

(a) Oral hygiene instruction only for clients through age eight.

(b) Oral hygiene instruction up to two times within a twelve-month period.

(c) Individualized oral hygiene instruction for home care to include tooth brushing technique, flossing, and use of oral hygiene aides.

(d) Oral hygiene instruction only when not performed on the same date of service as prophylaxis.

(e) Oral hygiene instruction only when provided by a licensed dentist or a licensed dental hygienist and the instruction is provided in a setting other than a dental office or clinic.

(4) **Sealants.** The department covers:

(a) Sealants only when used on a mechanically and/or chemically prepared enamel surface.

(b) Sealants once per tooth in a three-year period for clients through age eighteen.

(c) Sealants only when used on the occlusal surfaces of:

(i) Permanent teeth two, three, fourteen, fifteen, eighteen, nineteen, thirty, and thirty-one; and

(ii) Primary teeth A, B, I, J, K, L, S, and T.

(d) Sealants on noncarious teeth or teeth with incipient caries.

(e) Sealants only when placed on a tooth with no pre-existing occlusal restoration, or any occlusal restoration placed on the same day.

(f) Additional sealants on a case-by-case basis and when prior authorized.

(5) **Space maintenance.** The department covers:

(a) Fixed unilateral or fixed bilateral space maintainers for clients through age eighteen.

(b) Only one space maintainer per quadrant.

(c) Space maintainers only for missing primary molars A, B, I, J, K, L, S, and T.

(d) Replacement space maintainers only on a case-by-case basis and when prior authorized.

NEW SECTION

WAC 388-535-1084 Covered dental-related services for clients through age twenty—Restorative services. The department covers medically necessary dental-related restorative services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Restorative/operative procedures.** The department covers restorative/operative procedures performed in a hospital or an ambulatory surgical center for:

(a) Clients ages eight and younger;

(b) Clients ages nine through twenty only on a case-by-case basis and when prior authorized; and

(c) Clients of the division of developmental disabilities according to WAC 388-535-1099.

(2) **Amalgam restorations for primary and permanent teeth.** The department considers:

(a) Tooth preparation, all adhesives (including amalgam bonding agents), liners, bases, and polishing as part of the amalgam restoration.

(b) The occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the amalgam restoration.

(c) Buccal or lingual surface amalgam restorations, regardless of size or extension, as a one surface restoration. The department covers one buccal and one lingual surface per tooth.

(d) Multiple amalgam restorations of fissures and grooves of the occlusal surface of the same tooth as a one surface restoration.

(e) Amalgam restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(3) Amalgam restorations for primary posterior teeth only. The department covers amalgam restorations for a maximum of two surfaces for a primary first molar and maximum of three surfaces for a primary second molar. (See subsection (9)(c) of this section for restorations for a primary posterior tooth requiring additional surfaces.) The department does not pay for additional amalgam restorations.

(4) Amalgam restorations for permanent posterior teeth only. The department:

(a) Covers two occlusal amalgam restorations for teeth one, two, three fourteen, fifteen, and sixteen, if the restorations are anatomically separated by sound tooth structure.

(b) Covers amalgam restorations for a maximum of five surfaces per tooth for a permanent posterior tooth, once per client, per provider or clinic, in a two-year period.

(c) Covers amalgam restorations for a maximum of six surfaces per tooth for teeth one, two, three, fourteen, fifteen, and sixteen, once per client, per provider or clinic, in a two-year period (see (a) of this subsection).

(d) Does not pay for replacement of amalgam restoration on permanent posterior teeth within a two-year period unless the restoration has an additional adjoining carious surface. The department pays for the replacement restoration as one multi-surface restoration. The client's record must include radiographs and documentation supporting the medical necessity for the replacement restoration.

(5) Resin-based composite restorations for primary and permanent teeth. The department:

(a) Considers tooth preparation, acid etching, all adhesives (including resin bonding agents), liners and bases, polishing, and curing as part of the resin-based composite restoration.

(b) Considers the occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the resin-based composite restoration.

(c) Considers buccal or lingual surface resin-based composite restorations, regardless of size or extension, as a one surface restoration. The department covers only one buccal and one lingual surface per tooth.

(d) Considers resin-based composite restorations of teeth where the decay does not penetrate the DEJ to be sealants (see WAC 388-535-1082(4) for sealants coverage).

(e) Considers multiple preventive restorative resin, flowable composite resin, or resin-based composites for the occlusal, buccal, lingual, mesial, and distal fissures and grooves on the same tooth as a one surface restoration.

(f) Does not cover preventive restorative resin or flowable composite resin on the interproximal surfaces (mesial and/or distal) when performed on posterior teeth or the incisal surface of anterior teeth.

(g) Considers resin-based composite restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(6) Resin-based composite restorations for primary teeth only. The department covers:

(a) Resin-based composite restorations for a maximum of three surfaces for a primary anterior tooth (see subsection (9)(b) of this section for restorations for a primary anterior tooth requiring a four or more surface restoration). The department does not pay for additional composite or amalgam restorations on the same tooth after three surfaces.

(b) Resin-based composite restorations for a maximum of two surfaces for a primary first molar and a maximum of three surfaces for a primary second molar. (See subsection (9)(c) of this subsection for restorations for a primary posterior tooth requiring additional surfaces.) The department does not pay for additional composite restorations on the same tooth.

(c) Glass ionomer restorations only for primary teeth, and only for clients ages five and younger. The department pays for these restorations as a one surface resin-based composite restoration.

(7) Resin-based composite restorations for permanent teeth only. The department covers:

(a) Two occlusal resin-based composite restorations for teeth one, two, fourteen, fifteen, and sixteen if the restorations are anatomically separated by sound tooth structure.

(b) Resin-based composite restorations for a maximum of five surfaces per tooth for a permanent posterior tooth, once per client, per provider or clinic, in a two-year period.

(c) Resin-based composite restorations for a maximum of six surfaces per tooth for permanent posterior teeth one, two, three, fourteen, fifteen, and sixteen, once per client, per provider or clinic, in a two-year period (see (a) of this subsection).

(d) Resin-based composite restorations for a maximum of six surfaces per tooth for a permanent anterior tooth, once per client, per provider or clinic, in a two-year period.

(e) Replacement of resin-based composite restoration on permanent teeth within a two-year period only if the restoration has an additional adjoining carious surface. The department pays the replacement restoration as a one multi-surface restoration. The client's record must include radiographs and documentation supporting the medical necessity for the replacement restoration.

(8) Crowns. The department:

(a) Covers the following crowns once every five years, per tooth, for permanent anterior teeth for clients ages twelve through twenty when the crowns meet prior authorization criteria in WAC 388-535-1220 and the provider follows the prior authorization requirements in (d) of this subsection:

(i) Porcelain/ceramic crowns to include all porcelains, glasses, glass-ceramic, and porcelain fused to metal crowns; and

(ii) Resin crowns and resin metal crowns to include any resin-based composite, fiber, or ceramic reinforced polymer compound.

(b) Covers full coverage metal crowns once every five years, per tooth, for permanent posterior teeth to include high noble, titanium, titanium alloys, noble, and predominantly

base metal crowns for clients ages eighteen through twenty when they meet prior authorization criteria and the provider follows the prior authorization requirements in (d) and (e) of this subsection.

(c) Considers the following to be included in the payment for a crown:

- (i) Tooth and soft tissue preparation;
 - (ii) Amalgam and resin-based composite restoration, or any other restorative material placed within six months of the crown preparation. Exception: The department covers a one surface restoration on an endodontically treated tooth, or a core buildup or cast post and core;
 - (iii) Temporaries, including but not limited to, temporary restoration, temporary crown, provisional crown, temporary prefabricated stainless steel crown, ion crown, or acrylic crown;
 - (iv) Packing cord placement and removal;
 - (v) Diagnostic or final impressions;
 - (vi) Crown seating, including cementing and insulating bases;
 - (vii) Occlusal adjustment of crown or opposing tooth or teeth; and
 - (viii) Local anesthesia.
- (d) Requires the provider to submit the following with each prior authorization request:
- (i) Radiographs to assess all remaining teeth;
 - (ii) Documentation and identification of all missing teeth;
 - (iii) Caries diagnosis and treatment plan for all remaining teeth, including a caries control plan for clients with rampant caries;
 - (iv) Pre- and post-endodontic treatment radiographs for requests on endodontically treated teeth; and
 - (v) Documentation supporting a five-year prognosis that the client will retain the tooth or crown if the tooth is crowned.

(e) Requires a provider to bill for a crown only after delivery and seating of the crown, not at the impression date.

(9) **Other restorative services.** The department covers:

- (a) All recementations of permanent indirect crowns.
- (b) Prefabricated stainless steel crowns with resin window, resin-based composite crowns, prefabricated esthetic coated stainless steel crowns, and fabricated resin crowns for primary anterior teeth once every three years without prior authorization if the tooth requires a four or more surface restoration.
- (c) Prefabricated stainless steel crowns for primary posterior teeth once every three years without prior authorization if:
 - (i) Decay involves three or more surfaces for a primary first molar;
 - (ii) Decay involves four or more surfaces for a primary second molar; or
 - (iii) The tooth had a pulpotomy.
- (d) Prefabricated stainless steel crowns for permanent posterior teeth once every three years when prior authorized.
- (e) Prefabricated stainless steel crowns for clients of the division of developmental disabilities according to WAC 388-535-1099.

(f) Core buildup, including pins, only on permanent teeth, when prior authorized at the same time as the crown prior authorization.

(g) Cast post and core or prefabricated post and core, only on permanent teeth, when prior authorized at the same time as the crown prior authorization.

NEW SECTION

WAC 388-535-1086 Covered dental-related services for clients through age twenty—Endodontic services. The department covers medically necessary dental-related endodontic services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Pulp capping.** The department considers pulp capping to be included in the payment for the restoration.

(2) **Pulpotomy.** The department covers:

(a) Therapeutic pulpotomy on primary posterior teeth only; and

(b) Pulpal debridement on permanent teeth only, excluding teeth one, sixteen, seventeen, and thirty-two. The department does not pay for pulpal debridement when performed with palliative treatment of dental pain or when performed on the same day as endodontic treatment.

(3) **Endodontic treatment.** The department:

(a) Covers endodontic treatment with resorbable material for primary maxillary incisor teeth D, E, F, and G, if the entire root is present at treatment.

(b) Covers endodontic treatment for permanent anterior, bicuspid, and molar teeth, excluding teeth one, sixteen, seventeen, and thirty-two.

(c) Considers the following included in endodontic treatment:

(i) Pulpectomy when part of root canal therapy;

(ii) All procedures necessary to complete treatment; and

(iii) All intra-operative and final evaluation radiographs for the endodontic procedure.

(d) Pays separately for the following services that are related to the endodontic treatment:

(i) Initial diagnostic evaluation;

(ii) Initial diagnostic radiographs; and

(iii) Post treatment evaluation radiographs if taken at least three months after treatment.

(e) Requires prior authorization for endodontic retreatment and considers endodontic retreatment to include:

(i) The removal of post(s), pin(s), old root canal filling material, and all procedures necessary to prepare the canals;

(ii) Placement of new filling material; and

(iii) Retreatment for permanent anterior, bicuspid, and molar teeth, excluding teeth one, sixteen, seventeen, and thirty-two.

(f) Pays separately for the following services that are related to the endodontic retreatment:

(i) Initial diagnostic evaluation;

(ii) Initial diagnostic radiographs; and

(iii) Post treatment evaluation radiographs if taken at least three months after treatment.

(g) Does not pay for endodontic retreatment when provided by the original treating provider or clinic unless prior authorized by the department.

(h) Covers apexification for apical closures for anterior permanent teeth only on a case-by-case basis and when prior authorized. Apexification is limited to the initial visit and three interim treatment visits.

(i) Covers apicoectomy and a retrograde fill for anterior teeth only.

NEW SECTION

WAC 388-535-1088 Covered dental-related services for clients through age twenty—Periodontic services. The department covers medically necessary periodontic services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Surgical periodontal services.** The department covers the following surgical periodontal services, including all postoperative care:

(a) Gingivectomy/gingivoplasty only on a case-by-case basis and when prior authorized; and

(b) Gingivectomy/gingivoplasty for clients of the division of developmental disabilities according to WAC 388-535-1099.

(2) **Nonsurgical periodontal services.** The department:

(a) Covers periodontal scaling and root planing once per quadrant, per client in a two-year period on a case-by-case basis, when prior authorized for clients ages thirteen through eighteen, and only when:

(i) The client has radiographic evidence of periodontal disease;

(ii) The client's record includes supporting documentation for the medical necessity, including complete periodontal charting and a definitive diagnosis of periodontal disease;

(iii) The client's clinical condition meets current published periodontal guidelines; and

(iv) Performed at least two years from the date of completion of periodontal scaling and root planing or surgical periodontal treatment.

(b) Covers periodontal scaling and root planing once per quadrant, per client, in a two-year period for clients ages nineteen through twenty. Criteria in (a)(i) through (iv) of this subsection must be met.

(c) Considers ultrasonic scaling, gross scaling, or gross debridement to be included in the procedure and not a substitute for periodontal scaling and root planing.

(d) Covers periodontal scaling and root planing only when the services are not performed on the same date of service as prophylaxis, periodontal maintenance, gingivectomy, or gingivoplasty.

(e) Covers periodontal scaling and root planing for clients of the division of developmental disabilities according to WAC 388-535-1099.

(3) **Other periodontal services.** The department:

(a) Covers periodontal maintenance once per client in a twelve-month period on a case-by-case basis, when prior authorized, for clients ages thirteen through eighteen, and only when:

(i) The client has radiographic evidence of periodontal disease;

(ii) The client's record includes supporting documentation for the medical necessity, including complete periodontal charting and a definitive diagnosis of periodontal disease;

(iii) The client's clinical condition meets current published periodontal guidelines; and

(iv) Performed at least twelve months from the date of completion of periodontal scaling and root planing, or surgical periodontal treatment.

(b) Covers periodontal maintenance once per client in a twelve month period for clients ages nineteen through twenty. Criteria in (a)(i) through (iv) of this subsection must be met.

(c) Covers periodontal maintenance only if performed on a different date of service as prophylaxis, periodontal scaling and root planing, gingivectomy, or gingivoplasty.

(d) Covers periodontal maintenance for clients of the division of developmental disabilities according to WAC 388-535-1099.

NEW SECTION

WAC 388-535-1090 Covered dental-related services for clients through age twenty—Prosthodontics (removable). The department covers medically necessary prosthodontics (removable) services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Prosthodontics.** The department:

(a) Requires prior authorization for all removable prosthodontic and prosthodontic-related procedures, except as stated in (c)(ii)(B) of this subsection. Prior authorization requests must meet the criteria in WAC 388-535-1220. In addition, the department requires the dental provider to submit:

(i) Appropriate and diagnostic radiographs of all remaining teeth.

(ii) A dental record which identifies:

(A) All missing teeth for both arches;

(B) Teeth that are to be extracted; and

(C) Dental and periodontal services completed on all remaining teeth.

(iii) A prescription written by a dentist when a denturist's prior authorization request is for an immediate denture or a cast metal partial denture.

(b) Covers complete dentures, as follows:

(i) A complete denture, including an immediate denture or overdenture, is covered when prior authorized.

(ii) Three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the seat date of the complete denture, is considered part of the complete denture procedure and is not paid separately.

(iii) Replacement of an immediate denture with a complete denture is covered if the complete denture is prior authorized at least six months after the seat date of the immediate denture.

(iv) Replacement of a complete denture or overdenture is covered only if prior authorized at least five years after the seat date of the complete denture or overdenture being replaced. The replacement denture must be prior authorized.

(c) Covers partial dentures, as follows:

(i) A partial denture, including a resin or flexible base partial denture, is covered for anterior and posterior teeth when the partial denture meets the following department coverage criteria.

(A) The remaining teeth in the arch must have a reasonable periodontal diagnosis and prognosis;

(B) The client has established caries control;

(C) One or more anterior teeth are missing or four or more posterior teeth are missing;

(D) There is a minimum of four stable teeth remaining per arch; and

(E) There is a three-year prognosis for retention of the remaining teeth.

(ii) Prior authorization of partial dentures:

(A) Is required for clients ages nine and younger; and

(B) Not required for clients ages ten through twenty.

Documentation supporting the medical necessity for the service must be included in the client's file.

(iii) Three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the seat date of the partial denture, is considered part of the partial denture procedure and is not paid separately.

(iv) Replacement of a resin or flexible base denture is covered only if prior authorized at least three years after the seat date of the resin or flexible base partial denture being replaced. The replacement denture must be prior authorized and meet department coverage criteria in (c)(i) of this subsection.

(d) Covers cast-metal framework partial dentures, as follows:

(i) Cast-metal framework with resin-based partial dentures, including any conventional clasps, rests, and teeth, are covered for clients ages eighteen through twenty only once in a five-year period, on a case-by-case basis, when prior authorized and department coverage criteria listed in subsection (d)(v) of this subsection are met.

(ii) Cast-metal framework partial dentures for clients ages seventeen and younger are not covered.

(iii) Three-month post-delivery care (e.g., adjustments, soft relines, and repairs) from the seat date of the cast metal partial denture is considered part of the partial denture procedure and is not paid separately.

(iv) Replacement of a cast metal framework partial denture is covered on a case-by-case basis and only if placed at least five years after the seat date of the partial denture being replaced. The replacement denture must be prior authorized and meet department coverage criteria listed in (d)(v) of this subsection.

(v) Department authorization and payment for cast metal framework partial dentures is based on the following criteria:

(A) The remaining teeth in the arch must have a stable periodontal diagnosis and prognosis;

(B) The client has established caries control;

(C) All restorative and periodontal procedures must be completed before the request for prior authorization is submitted;

(D) There are fewer than eight posterior teeth in occlusion;

(E) There is a minimum of four stable teeth remaining per arch; and

(F) There is a five-year prognosis for the retention of the remaining teeth.

(vi) The department may consider resin partial dentures as an alternative if the department determines the criteria for cast metal framework partial dentures listed in (d)(v) of this subsection are not met.

(e) Requires a provider to bill for removable prosthetic procedures only after the seating of the prosthesis, not at the impression date. Refer to subsection (2)(e) and (f) for what the department may pay if the removable prosthesis is not delivered and inserted.

(f) Requires a provider to submit the following with a prior authorization request for removable prosthetics for a client residing in an alternate living facility (ALF) as defined in WAC 388-513-1301 or in a nursing facility:

(i) The client's medical diagnosis or prognosis;

(ii) The attending physician's request for prosthetic services;

(iii) The attending dentist's or denturist's statement documenting medical necessity;

(iv) A written and signed consent for treatment from the client's legal guardian when a guardian has been appointed; and

(v) A completed copy of the Denture/Partial Appliance Request for Skilled Nursing Facility Client form (DSHS 13-788) available from the department's published billing instructions.

(g) Limits removable partial dentures to resin-based partial dentures for all clients residing in one of the facilities listed in (f) of this subsection. The department may consider cast metal partial dentures if the criteria in subsection (1)(d) are met.

(h) Requires a provider to deliver services and procedures that are of acceptable quality to the department. The department may recoup payment for services that are determined to be below the standard of care or of an unacceptable product quality.

(2) Other services for removable prosthodontics. The department covers:

(a) Adjustments to complete and partial dentures three months after the date of delivery.

(b) Repairs to complete and partial dentures, once in a twelve month period. The department covers additional repairs on a case-by-case basis and when prior authorized.

(c) A laboratory reline or rebase to a complete or cast-metal partial denture, once in a three-year period when performed at least six months after the seating date. An additional reline or rebase may be covered for complete or cast-metal partial dentures on a case-by-case basis when prior authorized.

(d) Up to two tissue conditionings, and only when performed within three months after the seating date.

(e) Laboratory fees, subject to the following:

(i) The department does not pay separately for laboratory or professional fees for complete and partial dentures; and

(ii) The department may pay part of billed laboratory fees when the provider obtains prior authorization, and the client:

- (A) Is not eligible at the time of delivery of the prosthesis;
 - (B) Moves from the state;
 - (C) Cannot be located;
 - (D) Does not participate in completing the complete, immediate, or partial dentures; or
 - (E) Dies.
- (f) A provider must submit copies of laboratory prescriptions and receipts or invoices for each claim when billing for laboratory fees.

NEW SECTION

WAC 388-535-1092 Covered dental-related services for clients through age twenty—Maxillofacial prosthetic services. The department covers medically necessary maxillofacial prosthetic services, subject to the coverage limitations listed, for clients through age twenty as follows:

- (1) Maxillofacial prosthetics are covered only on a case-by-case basis and when prior authorized; and
- (2) The department must pre-approve a provider qualified to furnish maxillofacial prosthetics.

NEW SECTION

WAC 388-535-1094 Covered dental-related services for clients through age twenty—Oral and maxillofacial surgery services. The department covers medically necessary oral and maxillofacial surgery services, subject to the coverage limitations listed, for clients through age twenty as follows:

- (1) **Oral and maxillofacial surgery services.** The department:
 - (a) Requires enrolled providers who do not meet the conditions in WAC 388-535-1070(3) to bill claims for services that are listed in this subsection using only the Current Dental Terminology (CDT) codes.
 - (b) Requires enrolled providers (oral and maxillofacial surgeons) who meet the conditions in WAC 388-535-1070(3) to bill claims using Current Procedural Terminology (CPT) codes unless the procedure is specifically listed in the department's current published billing instructions as a CDT covered code (e.g., extractions).
 - (c) Covers nonemergency oral surgery performed in a hospital or ambulatory surgery center only for:
 - (i) Clients ages eight and younger;
 - (ii) Clients ages nine through twenty only on a case-by-case basis and when prior authorized; and
 - (iii) Clients of the division of developmental disabilities according to WAC 388-535-1099.
 - (d) Requires the client's dental record to include supporting documentation for each type of extraction or any other surgical procedure billed to the department. The documentation must include:
 - (i) Appropriate consent form signed by the client or the client's legal representative;
 - (ii) Appropriate radiographs;
 - (iii) Medical justification with diagnosis;
 - (iv) Client's blood pressure, when appropriate;
 - (v) A surgical narrative;
 - (vi) A copy of the post-operative instructions; and

- (vii) A copy of all pre- and post-operative prescriptions.
- (e) Covers routine and surgical extractions.
- (f) Covers debridement of a granuloma or cyst that is five millimeters or greater in diameter. The department includes debridement of a granuloma or cyst that is less than five millimeters as part of the global fee for the extraction.
- (g) Covers biopsy, as follows:
 - (i) Biopsy of soft oral tissue or brush biopsy do not require prior authorization; and
 - (ii) All biopsy reports or findings must be kept in the client's dental record.
 - (h) Covers alveoloplasty only on a case-by-case basis and when prior authorized. The department covers alveoloplasty only when not performed in conjunction with extractions.
 - (i) Covers surgical excision of soft tissue lesions only on a case-by-case basis and when prior authorized.
 - (j) Covers only the following excisions of bone tissue in conjunction with placement of immediate, complete, or partial dentures when prior authorized:
 - (i) Removal of lateral exostosis;
 - (ii) Removal of torus palatinus or torus mandibularis; and
 - (iii) Surgical reduction of soft tissue or osseous tuberosity.
 - (2) **Surgical incisions.** The department covers the following surgical incision-related services:
 - (a) Uncomplicated intraoral and extraoral soft tissue incision and drainage of abscess. The department does not cover this service when combined with an extraction or root canal treatment. Documentation supporting medical necessity must be in the client's record.
 - (b) Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue when prior authorized. Documentation supporting the medical necessity for the service must be in the client's record.
 - (c) Frenuloplasty/frenulectomy for clients through age six. The department covers frenuloplasty/frenulectomy for clients ages seven through twelve only on a case-by-case and when prior authorized. Documentation supporting the medical necessity for the service must be in the client's record.
- (3) **Occlusal orthotic devices.** (Refer to WAC 388-535-1098 (5)(c) for occlusal guard coverage and limitations on coverage.) The department covers:
 - (a) Occlusal orthotic devices for clients ages twelve through twenty only on a case-by-case basis and when prior authorized.
 - (b) An occlusal orthotic device only as a laboratory processed full arch appliance.

NEW SECTION

WAC 388-535-1096 Covered dental-related services for clients through age twenty—Orthodontic services. The department covers orthodontic services, subject to the coverage limitations listed, for clients through age twenty according to chapter 388-535A WAC.

NEW SECTION

WAC 388-535-1098 Covered dental-related services for clients through age twenty—Adjunctive general services. The department covers medically necessary dental-related adjunctive general services, subject to the coverage limitations listed, for clients through age twenty as follows:

(1) **Adjunctive general services.** The department:

(a) Covers palliative (emergency) treatment, not to include pupal debridement (see WAC 388-535-1086 (2)(b)), for treatment of dental pain, limited to once per day, per client, as follows:

(i) The treatment must occur during limited evaluation appointments;

(ii) A comprehensive description of the diagnosis and services provided must be documented in the client's record; and

(iii) Appropriate radiographs must be in the client's record supporting the medical necessity of the treatment.

(b) Covers local anesthesia and regional blocks as part of the global fee for any procedure being provided to clients.

(c) Covers office based oral or parenteral conscious sedation, deep sedation, or general anesthesia, as follows:

(i) The provider's current anesthesia permit must be on file with the department.

(ii) For clients of the division of developmental disabilities, the services must be performed according to WAC 388-535-1099.

(iii) For clients ages eight and younger, documentation supporting the medical necessity of the anesthesia service must be in the client's record.

(iv) For clients ages nine through twenty, deep sedation or general anesthesia services are covered on a case-by-case basis and when prior authorized, except for oral surgery services. Oral surgery services listed in WAC 388-535-1094 do not require prior authorization.

(v) Prior authorization is not required for oral or parenteral conscious sedation for any dental service. Documentation supporting the medical necessity of the service must be in the client's record.

(vi) For clients ages nine through eighteen who have a diagnosis of oral facial cleft, the department does not require prior authorization for deep sedation or general anesthesia services when the dental procedure is directly related to the oral facial cleft treatment.

(vii) For clients through age twenty, the provider must bill anesthesia services using the CDT codes listed in the department's current published billing instructions.

(d) Covers inhalation of nitrous oxide for clients through age twenty, once per day.

(e) Requires providers of oral or parenteral conscious sedation, deep sedation, or general anesthesia to meet:

(i) The prevailing standard of care;

(ii) The provider's professional organizational guidelines;

(iii) The requirements in chapter 246-817 WAC; and

(iv) Relevant department of health (DOH) medical, dental, or nursing anesthesia regulations.

(f) Pays for anesthesia services according to WAC 388-535-1350.

(g) Covers professional consultation/diagnostic services as follows:

(i) A dentist or a physician other than the practitioner providing treatment must provide the services; and

(ii) A client must be referred by the department for the services to be covered.

(2) **Nonemergency dental services.** The department covers nonemergency dental services performed in a hospital or ambulatory surgical center only for:

(a) Clients ages eight and younger.

(b) Clients ages nine through twenty only on a case-by-case basis and when prior authorized.

(c) Clients of the division of developmental disabilities according to WAC 388-535-1099.

(3) **Professional visits.** The department covers:

(a) Up to two house/extended care facility calls (visits) per facility, per provider. The department limits payment to two facilities per day, per provider.

(b) One hospital call (visit), including emergency care, per day, per provider, per client.

(c) Emergency office visits after regularly scheduled hours. The department limits payment to one emergency visit per day, per provider.

(4) **Drugs and/or medicaments (pharmaceuticals).** The department covers drugs and/or medicaments only when used with parenteral conscious sedation, deep sedation, or general anesthesia. The department's dental program does not pay for oral sedation medications.

(5) **Miscellaneous services.** The department covers:

(a) Behavior management when the assistance of one additional dental staff other than the dentist is required, for:

(i) Clients ages eight and younger;

(ii) Clients ages nine through twenty, only on a case-by-case basis and when prior authorized;

(iii) Clients of the division of developmental disabilities according to WAC 388-535-1099; and

(iv) Clients who reside in an alternate living facility (ALF) as defined in WAC 388-513-1301 or in a nursing facility.

(b) Treatment of post-surgical complications (e.g., dry socket). Documentation supporting the medical necessity of the service must be in the client's record.

(c) Occlusal guards when medically necessary and prior authorized. (Refer to WAC 388-535-1094(3) for occlusal orthotic device coverage and coverage limitations.) The department covers:

(i) An occlusal guard only for clients ages twelve through twenty when the client has permanent dentition; and

(ii) An occlusal guard only as a laboratory processed full arch appliance.

NEW SECTION

WAC 388-535-1099 Covered dental-related services for clients of the division of developmental disabilities. The department pays for dental-related services under the categories of services listed in this section for clients of the division of developmental disabilities, subject to the coverage limitations listed. Chapter 388-535 WAC applies to cli-

ents of the division of developmental disabilities unless otherwise stated in this section.

(1) **Preventive services.**

(a) Dental prophylaxis. The department covers dental prophylaxis or periodontal maintenance up to three times in a twelve-month period (see subsection (3) of this section for limitations on periodontal scaling and root planing).

(b) Topical fluoride treatment. The department covers topical fluoride varnish, rinse, foam or gel, up to three times within a twelve-month period.

(c) Sealants. The department covers sealants:

(i) Only when used on the occlusal surfaces of:

(A) Primary teeth A, B, I, J, K, L, S, and T; or

(B) Permanent teeth two, three, four, five, twelve, thirteen, fourteen, fifteen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, and thirty-one.

(ii) Once per tooth in a two-year period.

(2) **Crowns.** The department covers stainless steel crowns every two years for the same tooth and only for primary molars and permanent premolars and molars, as follows:

(a) For clients ages twenty and younger, the department does not require prior authorization for stainless steel crowns. Documentation supporting the medical necessity of the service must be in the client's record.

(b) For clients ages twenty-one and older, the department requires prior authorization for stainless steel crowns.

(3) **Periodontic services.**

(a) **Surgical periodontal services.** The department covers:

(i) Gingivectomy/gingivoplasty once every three years. Documentation supporting the medical necessity of the service must be in the client's record (e.g., drug induced gingival hyperplasia).

(ii) Gingivectomy/gingivoplasty with periodontal scaling and root planing or periodontal maintenance when the services are performed:

(A) In a hospital or ambulatory surgical center; or

(B) For clients under conscious sedation, deep sedation, or general anesthesia.

(b) **Nonsurgical periodontal services.** The department covers:

(i) Periodontal scaling and root planing, up to two times per quadrant in a twelve-month period.

(ii) Periodontal scaling (four quadrants) substitutes for an eligible periodontal maintenance or oral prophylaxis, twice in a twelve-month period.

(4) **Adjunctive general services.**

(a) **Adjunctive general services.** The department covers:

(i) Oral parenteral conscious sedation, deep sedation, or general anesthesia for any dental services performed in a dental office or clinic. Documentation supporting the medical necessity must be in the client's record.

(ii) Sedations services according to WAC 388-535-1098 (1)(c) and (e).

(b) **Nonemergency dental services.** The department covers nonemergency dental services performed in a hospital or an ambulatory surgical center for services listed as covered in WAC 388-535-1082, WAC 388-535-1084, WAC 388-

535-1086, WAC 388-535-1088, and WAC 388-535-1094. Documentation supporting the medical necessity of the service must be included in the client's record.

(5) **Miscellaneous services—Behavior management.** The department covers behavior management provided in dental offices or dental clinics for clients of any age. Documentation supporting the medical necessity of the service must be included in the client's record.

AMENDATORY SECTION (Amending WSR 03-19-078, filed 9/12/03, effective 10/13/03)

WAC 388-535-1100 Dental-related services not covered (~~—Children~~) for clients through age twenty. (1) The ~~((medical assistance administration (MAA) does not cover children's dental-related services described in subsection (2) of this section unless the services are:~~

~~(a) Required by a physician as a result of an EPSDT screen as provided under chapter 388-534 WAC; or~~

~~(b) Included in an MAA waived program.~~

(2) MAA does not cover the following services for children:

~~(a) Any service specifically excluded by statute;~~

~~(b) More costly services when less costly, equally effective services as determined by the department are available;~~

~~(c) Services, procedures, treatment, devices, drugs, or application of associated services which the department or the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)) consider investigative or experimental on the date the services were provided;~~

~~(d) Routine fluoride treatments (gel or varnish) for clients age nineteen through twenty, unless the clients are:~~

~~(i) Clients of the division of developmental disabilities;~~

~~or~~

~~(ii) Diagnosed with xerostomia, in which case the provider must request prior authorization.~~

~~(e) Crowns, as follows:~~

~~(i) For wisdom and peg teeth;~~

~~(ii) Laboratory processed crowns for posterior teeth;~~

~~(iii) Temporary crowns, including stainless steel crowns placed as temporary crowns; and~~

~~(iv) Post and core for crowns.~~

~~(f) Root canal services for primary or wisdom teeth;~~

~~(g) Root planing, unless they are clients of the division of developmental disabilities;~~

~~(h) Bridges;~~

~~(i) Transitional or treatment dentures;~~

~~(j) Teeth implants, including follow up and maintenance;~~

~~(k) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to an accident, birth defect, or illness;~~

~~(l) Porcelain margin extensions (also known as crown lengthening), due to receding gums;~~

~~(m) Extraction of asymptomatic teeth;~~

~~(n) Minor bone grafts;~~

~~(o) Nonemergent oral surgery performed in an inpatient hospital setting, except for the following:~~

~~(i) For clients of the division of developmental disabilities, or for children eighteen years of age or younger whose~~

surgeries cannot be performed in an office setting. This requires written prior authorization for the inpatient hospitalization; or

- (ii) As provided in WAC 388-535-1080(4).
- (p) Dental supplies such as toothbrushes (manual, automatic, or electric), toothpaste, floss, or whiteners;
- (q) Dentist's time writing prescriptions or calling in prescriptions or prescription refills to a pharmacy;
- (r) Educational supplies;
- (s) Missed or canceled appointments;
- (t) Nonmedical equipment, supplies, personal or comfort items or services;
- (u) Provider mileage or travel costs;
- (v) Service charges or delinquent payment fees;
- (w) Supplies used in conjunction with an office visit;
- (x) Take-home drugs;
- (y) Teeth whitening; or
- (z) Restorations for anterior or posterior wear with no evidence of decay.

(3) MAA evaluates a request for any service that is listed as nonecovered under the provisions of WAC 388-501-0165)) department does not cover the following for clients through age twenty:

(a) The dental-related services described in subsection (2) of this section unless the services are covered under the early periodic screening, diagnosis and treatment (EPSDT) program. See WAC 388-534-0100 for information about the EPSDT program.

(b) Any service specifically excluded by statute.

(c) More costly services when less costly, equally effective services as determined by the department are available.

(d) Services, procedures, treatment, devices, drugs, or application of associated services:

(i) Which the department or the Centers for Medicare and Medicaid Services (CMS) considers investigative or experimental on the date the services were provided.

(ii) That are not listed as covered in one or both of the following:

(A) Washington Administrative Code (WAC).

(B) The department's current published documents.

(2) The department does not cover dental-related services listed under the following categories of service for clients through age twenty (see subsection (1)(a) of this section for services provided under the EPSDT program):

(a) **Diagnostic services.** The department does not cover:

(i) Extraoral radiographs.

(ii) Comprehensive periodontal evaluations.

(b) **Preventive services.** The department does not cover:

(i) Nutritional counseling for control of dental disease.

(ii) Tobacco counseling for the control and prevention of oral disease.

(iii) Removable space maintainers of any type.

(iv) Sealants placed on a tooth with the same-day occlusal restoration, pre-existing occlusal restoration, or a tooth with occlusal decay.

(v) Space maintainers for clients ages nineteen through twenty.

(c) **Restorative services.** The department does not cover:

(i) Gold foil restorations.

(ii) Metallic, resin-based composite, or porcelain/ceramic inlay/onlay restorations.

(iii) Crowns for cosmetic purposes (e.g., peg laterals and tetracycline staining).

(iv) Crowns for third molars one, sixteen, seventeen, and thirty-two.

(v) Temporary or provisional crowns (including ion crowns).

(vi) Labial veneer resin or porcelain laminate restorations.

(vii) Any type of coping.

(viii) Crown repairs.

(ix) Polishing or recontouring restorations or overhang removal for any type of restoration.

(d) **Endodontic services.** The department does not cover:

(i) Any endodontic therapy on primary teeth, except as described in WAC 388-535-1086 (3)(a).

(ii) Apexification/recalcification for root resorption of permanent anterior teeth.

(iii) Any apexification/recalcification procedures for bicuspid or molar teeth.

(iv) Any apicoectomy/periradicular services for bicuspid or molar teeth.

(v) Any surgical endodontic procedures including, but not limited to, retrograde fillings (except for anterior teeth), root amputation, reimplantation, and hemisections.

(e) **Periodontic services.** The department does not cover:

(i) Surgical periodontal services including, but not limited to:

(A) Gingival flap procedures.

(B) Clinical crown lengthening.

(C) Osseous surgery.

(D) Bone or soft tissue grafts.

(E) Biological material to aid in soft and osseous tissue regeneration.

(F) Guided tissue regeneration.

(G) Pedicle, free soft tissue, apical positioning, subepithelial connective tissue, soft tissue allograft, combined connective tissue and double pedicle, or any other soft tissue or osseous grafts.

(H) Distal or proximal wedge procedures.

(ii) Nonsurgical periodontal services including, but not limited to:

(A) Intracoronal or extracoronal provisional splinting.

(B) Full mouth or quadrant debridement.

(C) Localized delivery of chemotherapeutic agents.

(D) Any other type of nonsurgical periodontal service.

(f) **Removable prosthodontics.** The department does not cover:

(i) Removable unilateral partial dentures.

(ii) Any interim complete or partial dentures.

(iii) Precision attachments.

(iv) Replacement of replaceable parts for semi-precision or precision attachments.

(g) **Implant services.** The department does not cover:

(i) Any type of implant procedures, including, but not limited to, any tooth implant abutment (e.g., periosteal

implant, eposteal implant, and transosteal implant), abutments or implant supported crown, abutment supported retainer, and implant supported retainer.

(ii) Any maintenance or repairs to procedures listed in (g)(i) of this subsection.

(iii) The removal of any implant as described in (g)(i) of this subsection.

(h) **Fixed prosthodontics.** The department does not cover:

(i) Any type of fixed partial denture pontic or fixed partial denture retainer.

(ii) Any type of precision attachment, stress breaker, connector bar, coping, cast post, or any other type of fixed attachment or prosthesis.

(i) **Oral and maxillofacial surgery.** The department does not cover:

(i) Any oral surgery service not listed in WAC 388-535-1094.

(ii) Any oral surgery service that is not listed in the department's list of covered Current Procedural Terminology (CPT) codes published in the department's current rules or billing instructions.

(j) **Adjunctive general services.** The department does not cover:

(i) Anesthesia, including, but not limited to:

(A) Local anesthesia as a separate procedure.

(B) Regional block anesthesia as a separate procedure.

(C) Trigeminal division block anesthesia as a separate procedure.

(D) Medication for oral sedation, or therapeutic intramuscular (IM) drug injections, including antibiotic and injection of sedative.

(E) Application of any type of desensitizing medicament or resin.

(ii) Other general services including, but not limited to:

(A) Fabrication of an athletic mouthguard.

(B) Occlusion analysis.

(C) Occlusal adjustment or odontoplasties.

(D) Enamel microabrasion.

(E) Dental supplies such as toothbrushes, toothpaste, floss, and other take home items.

(F) Dentist's or dental hygienist's time writing or calling in prescriptions.

(G) Dentist's or dental hygienist's time consulting with clients on the phone.

(H) Educational supplies.

(I) Nonmedical equipment or supplies.

(J) Personal comfort items or services.

(K) Provider mileage or travel costs.

(L) Fees for no-show, cancelled, or late arrival appointments.

(M) Service charges of any type, including fees to create or copy charts.

(N) Office supplies used in conjunction with an office visit.

(O) Teeth whitening services or bleaching, or materials used in whitening or bleaching.

AMENDATORY SECTION (Amending WSR 03-19-078, filed 9/12/03, effective 10/13/03)

WAC 388-535-1220 Obtaining prior authorization for dental-related services(~~—Children~~) for clients through age twenty. ((When the medical assistance administration (MAA) authorizes a dental-related service for children, that authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

~~(1) MAA)) (1) The department uses the determination process for payment described in WAC 388-501-0165 for covered dental-related services for clients through age twenty that require prior authorization.~~

~~(2) The department requires a dental provider who is requesting prior authorization to submit sufficient objective clinical information to establish medical necessity. The request must be submitted in writing on an American Dental Association (ADA) claim form, which may be obtained by writing to the American Dental Association, 211 East Chicago Avenue, Chicago, Illinois 60611. ((The request must include at least all of the following:))~~

~~(3) The department may request additional information as follows:~~

~~(a) ((Physiological description of the disease, injury, impairment, or other ailment;~~

~~(b)) Additional radiographs (x-rays)(refer to WAC 388-535-1080(2));~~

~~((c) Treatment plan;~~

~~(d)) (b) Study models ((-if requested)); ((and~~

~~(e)) (c) Photographs((-if requested)); and~~

~~(d) Any other information as determined by the department.~~

~~(4) The department may require second opinions and/or consultations before authorizing any procedure.~~

~~((2) MAA authorizes requested services that meet the criteria in WAC 388-535-1080.~~

~~(3) MAA denies a request for dental services when the requested service is:~~

~~(a) Not medically necessary; or~~

~~(b) A service, procedure, treatment, device, drug, or application of associated service which the department or the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)) consider investigative or experimental on the date the service is provided.~~

~~(4) MAA may require second opinions and/or consultations before authorizing any procedure.~~

~~(5) Authorization is valid only if the client is eligible for covered services on the date of service)) (5) When the department authorizes a dental-related service for a client, that authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The authorization is valid for six months and only if the client is eligible for covered services on the date of service.~~

~~(6) The department denies a request for a dental-related service when the requested service:~~

~~(a) Is covered by another department program;~~

~~(b) Is covered by an agency or other entity outside the department; or~~

(c) Fails to meet the program criteria, limitations, or restrictions in chapter 388-535 WAC.

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

AMENDATORY SECTION (Amending WSR 02-11-136, filed 5/21/02, effective 6/21/02)

WAC 388-535-1245 Access to baby and child dentistry (ABCD) program. The access to baby and child dentistry (ABCD) program is a program established to increase access to dental services ~~((in targeted areas))~~ for Medicaid-eligible ~~((infants, toddlers, and preschoolers. Public and private sectors cooperate to administer the program))~~ clients ages five and younger.

(1) Client eligibility for the ABCD program is as follows:

(a) Clients must be age five ~~((years of age or))~~ and younger ~~((and reside in targeted areas selected by the medical assistance administration (MAA))).~~ Once enrolled in the ABCD program, ~~((an))~~ eligible clients ~~((is))~~ are covered until ~~((reaching age six))~~ their sixth birthday.

(b) ~~((Eligible clients enrolled in a managed care plan are eligible for the ABCD program under fee-for-service.~~

~~((e-Eligible))~~ Clients ~~((enrolled in))~~ eligible under one of the following medical assistance programs are eligible for the ABCD program:

(i) Categorically needy program ~~((CN or))~~ CNP);

(ii) Limited casualty program ~~((+))~~ medically needy program (LCP ~~((+))~~ MNP); ~~((and))~~

(iii) Children's health program; or

(iv) State children's health insurance program (SCHIP).

(c) ABCD program services for eligible clients enrolled in a managed care organization (MCO) plan are paid through the fee-for-service payment system.

(2) Health care providers and community service programs ~~((in the targeted areas))~~ identify and refer eligible clients to the ABCD program. If enrolled, the client and an adult family member may receive:

(a) ~~((An ABCD program identification card;~~

~~((b))~~ Oral health ~~((information))~~ education;

~~((c))~~ (b) "Anticipatory guidance" (expectations of the client and the client's family members, including the importance of keeping appointments); and

~~((d))~~ (c) Assistance with ~~((obstacles to care, such as lack of))~~ transportation ~~((; and~~

~~((e) Case management services, for families who do not cooperate with the training(s) in this subsection.~~

~~((3) Families who do not cooperate with the training(s) in subsection (2) of this section may be disqualified from the ABCD program. The client remains eligible for MAA dental coverage as described in this chapter.~~

~~((4) The))~~ interpreter services, and other issues related to dental services.

(3) Dentists must be certified through the continuing education program in the University of Washington School of Pediatric Dentistry ~~((s continuing education program certifies dental providers))~~ to furnish ABCD program services.

~~((5-MAA))~~ (4) The department pays enhanced fees to ABCD-certified participating providers for furnishing ABCD

program services. ~~((In addition to services provided under MAA's dental care program, the ABCD program provides family oral health education, which is allowed twice per year, per family, and must include))~~ ABCD program services include, when appropriate:

(a) ~~((Risk assessment;~~

~~((b))~~ Family oral health ~~((instruction/training;~~

~~((c) Dietary counseling;~~

~~((d) Fluoride supplements, if appropriate; and~~

~~((e) Documentation in))~~ education. An oral health education visit:

(i) Must have a duration of at least twenty minutes for each visit;

(ii) Is limited to one visit per day per family, up to two visits per calendar year; and

(iii) Must include all of the following:

(A) "Lift lip" training;

(B) Oral hygiene training;

(C) Risk assessment for early childhood caries;

(D) Dietary counseling;

(E) Topical application of gel or varnish;

(F) Discussion of fluoride supplements; and

(G) Documentation in the client's file or the client's designated adult member's (family member or other responsible adult) file to record the activities provided and duration of the oral education visit.

(b) Comprehensive and periodic oral evaluation, up to two visits per client, per calendar year;

(c) Amalgam and resin restorations on primary teeth, as specified in current department-published documents;

(d) Therapeutic pulpotomy;

(e) Prefabricated stainless steel crowns on primary teeth, as specified in current department-published documents;

(f) Resin-based composite crowns on anterior primary teeth; and

(g) Other dental-related services, as specified in current department-published documents.

(5) The client's file must show documentation of the ABCD program services provided.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-535-1200 Dental-related services requiring prior authorization—Children.

WAC 388-535-1230 Crowns for children.

WAC 388-535-1240 Dentures, partial dentures, and overdentures for children.

WSR 07-08-005
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed March 22, 2007, 7:56 a.m., effective April 22, 2007]

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

Purpose: New WAC 246-843-270 and 246-843-280 are adopted to respond to Governor's Executive Order 06-03. They establish clear definitions for sexual misconduct by nursing home administrators. It is expected that these rules will help nursing home administrators avoid sexual misconduct and educate consumers about what they should expect from nursing home administrators.

Statutory Authority for Adoption: RCW 18.130.050 (1) and (12) and 18.52.061(1).

Adopted under notice filed as WSR 06-22-101 on November 1, 2006.

A final cost-benefit analysis is available by contacting Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4723, fax (360) 236-4738, e-mail kendra.pitzler@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: December 8, 2006.

Kendra Pitzler
Program Manager

STANDARDS OF SEXUAL MISCONDUCT

NEW SECTION

WAC 246-843-270 Definitions for sexual misconduct. (1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(3) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The

activity must be within the scope of practice of the nursing home administrator.

(4) "Nursing home administrator" means an individual applying for a credential or credentialed as a nursing home administrator under chapter 18.52 RCW.

(5) "Patient" or "client" means an individual who receives health care in a nursing home under the administrative charge of the nursing home administrator.

NEW SECTION

WAC 246-843-280 Sexual misconduct. (1) A nursing home administrator shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the nursing home administrator's scope of practice;
- (c) Rubbing against a patient or client or key party for sexual gratification;
- (d) Kissing of a romantic or sexual nature;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient, client or key party;
- (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;
- (k) Encouraging masturbation or other sex act in the presence of the nursing home administrator;
- (l) Masturbation or other sex act by the nursing home administrator in the presence of the patient, client or key party;
- (m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (n) Soliciting a date with a patient, client or key party;
- (o) Discussing the sexual history, preferences or fantasies of the nursing home administrator;
- (p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (q) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;
- (r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(t) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A nursing home administrator shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the nursing home administrator's sexual needs.

(3) A nursing home administrator shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

(4) After the two-year period of time described in subsection (3) of this section, a nursing home administrator shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the nursing home administrator; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(5) When evaluating whether a nursing home administrator is prohibited from engaging, or attempting to engage, in sexual misconduct, the board of examiners for nursing home administrators will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the nursing home administrator-patient relationship;

(b) Transfer of care to another nursing home administrator;

(c) Duration of the nursing home administrator-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the nursing home administrator and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the nursing home administrator;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(6) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(7) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another nursing home administrator;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to nursing home administrators; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the nursing home administrator where there is no evidence of, or potential for, exploiting the patient or client.

WSR 07-08-010

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 06-13—Filed March 22, 2007, 4:07 p.m., effective April 22, 2007]

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

Purpose: This rule creates a new extraordinary financial hardship loan program. This loan program will have deferred terms and conditions that may not be indefinite. The rule requires applicants for the extraordinary financial hardship loan program to demonstrate the following: Financial need for the loan; inability to repay the loan under present circumstances; inability to obtain funds from any other source; and inability to bond or raise its tax base. Local governments cannot receive extraordinary financial hardship loans unless the department of ecology's director approves their applications.

Citation of Existing Rules Affected by this Order: Amending chapter 173-322 WAC, Remedial action grants.

Statutory Authority for Adoption: RCW 70.105D.070.

Adopted under notice filed as WSR 06-23-122 on November 21, 2006.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: March 22, 2007.

Jay J. Manning

Director

AMENDATORY SECTION (Amending Order 04-06, filed 3/18/05, effective 4/18/05)

WAC 173-322-020 Definitions. Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC 173-340-200.

"Abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.

"Area-wide ground water contamination" means multiple adjacent properties with different ownership affected by hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.

"Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-350 through 173-340-390.

"Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter 246-293 WAC.

"Decree" or "consent decree" means a consent decree issued under WAC 173-340-520 or the federal cleanup law.

"Department" means the department of ecology.

"Director" means the director of the department of ecology.

"Economically disadvantaged county" means a county that meets the following criteria:

- The per capita income of the county, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and
- The county is economically distressed, as defined by chapter ((43-165)) 43.168 RCW.

The department will include a list of counties which are economically disadvantaged in the following publication: Washington state department of ecology, "*Remedial Action Program Guidelines*," Publication No. 99-505.

"Federal cleanup law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

"Grant agreement" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

"Hazard ranking" means the ranking for hazardous waste sites used by the department pursuant to RCW 70.105D.030 (2)(b) and WAC 173-340-330.

"Hazardous substances" means any hazardous substance as defined in WAC 173-340-200.

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or consent decree.

"Initial containment of methamphetamine lab sites" means the first location where hazardous substances are confined by a container, vessel, barrier, or structure, whether natural or constructed, with a defined boundary, and that prevents or minimizes its release into the environment.

"Innovative technology" means new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under different site conditions. Innovative technology also means the innovative use of existing technologies that have been established for use under certain site conditions, but not the conditions that exist at the hazardous waste site for which a remedial action grant is sought. Innovative technology has limited performance and cost data available.

"Interim action" means a remedial action conducted under WAC 173-340-430.

"Loan agreement" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government that must be repaid. The loan agreement includes terms such as interest rates and repayment schedule, scope of work, performance schedule, and project budget.

"Local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county.

"Methamphetamine lab site assessment" means the actions taken by a local health department or district under WAC 246-205-520 through 246-205-560, including posting the property, inspecting the property, determining whether the property is contaminated, posting contaminated property, and notifying occupants, property owners, and other persons with an interest in the contaminated property.

"Model Toxics Control Act" or "act" means chapter 70.105D RCW, first passed by the voters in the November 1988 general election as Initiative 97 and as since amended by the legislature.

"National Priorities List" or "NPL" means a list of hazardous waste sites at which the U.S. Environmental Protection Agency intends to proceed with enforcement or cleanup action.

"No further action (NFA) determination" means a written opinion issued by the department under WAC 173-340-515 (5)(b) that the independent remedial actions performed at a hazardous waste site meet the substantive requirements of chapter 173-340 WAC and that no further remedial action is required at the hazardous waste site. The opinion is advisory only and not binding on the department.

"Order" means an order issued under chapter 70.105D RCW, including enforcement orders issued under WAC 173-340-540 and agreed orders issued under WAC 173-340-530, or an order issued under the federal cleanup law, including unilateral administrative orders (UAO) and administrative orders on consent (AOC).

"Oversight costs" are remedial action costs of the department or the U.S. Environmental Protection Agency reason-

ably attributable to the administration of an order or decree for remedial action at a hazardous waste site.

"Oversight remedial actions" means remedial actions conducted under an order or decree.

"Partial funding" means funding less than the maximum percentage of eligible costs allowed under this chapter.

"Pilot study" means an experiment in remedial action method, with the purpose of testing the suitability of a particular cleanup technology or process for remedial action at a particular site.

"Potentially liable person" or "PLP" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Potentially responsible party" or "PRP" means "covered persons" as defined under section 9607 (a)(1) through (4) of the federal cleanup law (42 U.S.C. Sec. 9607(a)).

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system and collection or pre-treatment storage facilities not under control of the purveyor but primarily used in connection with such system.

"Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

"Recycling" means a remedial action which permanently removes hazardous substances from the site and successfully directs the material into a new product suitable for further industrial or consumer use.

"Remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Remedial design (RD)" means an engineering study during which technical plans and specifications are developed to guide subsequent cleanup action at a hazardous waste site.

"Remedial investigation/feasibility study" or "RI/FS" means a remedial action that consists of activities conducted under WAC 173-340-350 intended to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action under WAC 173-340-360 through 173-340-390.

"Retroactive costs" means costs incurred before the date of the grant agreement.

"Safe drinking water" means water meeting drinking water quality standards set by chapter 246-290 WAC.

"Safe drinking water action" means an action by a local government purveyor or other purveyor to provide safe drinking water through public water systems to areas contam-

inated by or threatened by contamination from hazardous waste sites.

"Site" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

"Treatment" means a remedial action which permanently destroys, detoxifies, or recycles hazardous substances.

AMENDATORY SECTION (Amending Order 04-06, filed 3/18/05, effective 4/18/05)

WAC 173-322-130 Loans. (1) **Purpose.** This section establishes requirements for a program of remedial action loans to local governments under RCW 70.105D.070 (3)(a) and (7). The loan program shall be limited to providing loans to supplement local government funding and funding from other sources to meet the match requirements for oversight remedial action grants. The intent of the loan program is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Types of loans.** The loan program includes two different types of loans, a standard loan and an extraordinary financial hardship loan. The two types of loans have different applicant eligibility requirements and different terms and conditions for repayment based upon the applicant's ability to repay the loan.

(a) **Standard loan.** A standard loan is a loan that includes the terms and conditions for repayment.

(b) **Extraordinary financial hardship loan.** An extraordinary financial hardship loan is a loan that includes deferred terms and conditions for repayment. Deferred terms and conditions may not be indefinite. Any such loan must be approved by the director.

(3) **Applicant eligibility.** To be eligible for a loan, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must meet the eligibility requirements for an oversight remedial action grant set forth in WAC 173-322-070(2);

(c) The applicant must agree to undergo an independent third-party financial review to determine its financial need for the loan, ability to repay the loan, and inability to obtain funds from ~~((any))~~ other sources. The financial review shall be conducted at the direction and cost of the department ~~((; and))~~. Based on that financial review, the applicant must demonstrate the following:

(i) For a standard loan, its financial need for the loan, ability to repay the loan, and inability to obtain funds from any other source;

(ii) For an extraordinary financial hardship loan, its financial need for the loan, inability to repay the loan under present circumstances, inability to obtain funds from any other source, and inability to bond or raise its tax base;

(d) The hazardous waste site must present an immediate danger to human health and the environment; and

(e) The inability to obtain a loan would significantly delay the cleanup and subsequent use, sale or redevelopment of the properties affected by the hazardous waste site.

~~((3))~~ **(4) Application process.**

(a) **Submittal.** The loan application must be submitted to the department at the same time as the associated oversight remedial action grant application.

(b) **Content.** The loan application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate the following:

(A) For a standard loan, the applicant's financial need for the loan, ability to repay the loan, and inability to obtain matching funds from any other source;

(B) For an extraordinary financial hardship loan, the applicant's financial need for the loan, inability to repay the loan under present circumstances, inability to obtain funds from any other source, and inability to bond or raise its tax base;

(ii) Sufficient evidence that the hazardous waste site presents an immediate danger to human health and the environment; ~~(and)~~

(iii) Sufficient evidence that the inability to obtain a loan would significantly delay the cleanup and subsequent use, sale or redevelopment of the properties affected by the hazardous waste site; and

(iv) A copy of the applicant's most recent Comprehensive Annual Financial Report.

~~((4))~~ **(5) Application evaluation and prioritization.**

(a) The department will evaluate the loan application together with the associated oversight remedial action grant application. The grant and loan applications will be evaluated by the department for completeness and adequacy. After the grant and loan applications have been completed, the department and the applicant will negotiate a scope of work and budget for the grant and loan. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant and loan.

(b) If the department determines that the applicant meets eligibility requirements for an extraordinary financial hardship loan in subsection (3) of this section, then the department may, upon the approval by the director, provide such a loan to the applicant instead of a standard loan.

(c) The department will fund the loan from the same fund allocation used to fund the associated oversight remedial action grant. When the demand for funds allocated for oversight remedial action grants and loans exceeds the amount of funds available, the department will prioritize the associated grant and loan applications together using the criteria set forth in WAC 173-322-070(5).

~~((5))~~ **(6) Cost eligibility.** The eligible costs for the loan program shall be the same as the eligible costs for the oversight remedial action grant program set forth in WAC 173-322-070(6).

~~((6))~~ **(7) Retroactive cost eligibility.** The eligibility of retroactive costs for the loan program shall be the same as the eligibility of retroactive costs for the oversight remedial action grant program set forth in WAC 173-322-070(7).

~~((7))~~ **(8) Funding and repayment.**

(a) **General.** If the department provides the applicant an oversight remedial action grant and the grant is funded to the maximum extent allowed under WAC 173-322-070(8), then the department may also provide the applicant a loan to enable the applicant to meet the match requirement for the grant. The loan shall be used to supplement local government funding and funding from other sources to meet the match requirement.

(b) **Department funding of match requirement.** The department may provide a loan to the applicant for up to one hundred percent of the match requirement for the oversight remedial action grant.

(c) **Local government funding of match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant or loan. The applicant may not use in-kind services or proceeds from contribution claims to meet the match requirement.

(d) **Repayment of loan.** The terms and conditions for repayment of the loan shall be based on the applicant's ability to repay the loan, as determined by an independent third-party financial review. The independent third-party financial review shall be conducted at the direction and cost of the department. For extraordinary financial hardship loans, the repayment terms and conditions can be deferred. Deferred terms are dependent on periodic review of the applicant's ability to pay. Deferred terms and conditions may not be indefinite.

**WSR 07-08-020
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY**

[Filed March 27, 2007, 8:45 a.m., effective May 1, 2007]

Effective Date of Rule: May 1, 2007.

Purpose: To allow submittal of asbestos notifications and payments on-line, rather than on paper forms by mail or fax.

Citation of Existing Rules Affected by this Order: Amending Regulation III, Section 4.03.

Statutory Authority for Adoption: Chapter 70.94 RCW. Adopted under notice filed as WSR 07-04-076 on February 5, 2007.

Changes Other than Editing from Proposed to Adopted Version: In section 4.03(b) amendments, "(C) Changes in the start date, completion date, or work schedule, including hours of work." was changed to "(C) Changes in the start date; or (D) Changes in the completion date."

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

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

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

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

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

Date Adopted: March 22, 2007.

Rosemary Busterna
Compliance Specialist II

AMENDATORY SECTION

REGULATION III SECTION 4.03 ASBESTOS NOTIFICATION REQUIREMENTS

(a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the appropriate nonrefundable ~~((required))~~ fee and any additional information requested by the Control Officer, has been submitted to the Agency ~~((on approved forms, in accordance with the advance notification period))~~ in accordance with the waiting period and fee requirements ~~((contained))~~ in Section 4.03(d) of this ~~((R))~~ regulation. Except for the annual notification requirements in Section 4.03 (a)(8) of this regulation, the notification must be submitted on approved forms through the Agency website.

(1) The duration of an asbestos project shall be commensurate with the amount of work involved.

(2) Notification is not required for asbestos projects involving less than 10 linear feet of friable, asbestos-containing material on pipes and/or 48 square feet of friable, asbestos-containing material on other components (per structure, building, or vessel, per calendar year).

(3) Notification is not required for removal and disposal of nonfriable, asbestos-containing material.

(4) Notification is required for all demolitions involving structures with a projected roof area greater than 120 square feet, even if no asbestos-containing material is present.

~~((The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency.))~~ All demolitions require a 10-day waiting period unless waived under Section 4.03 (c)(1) of this regulation.

(6) A printout ~~((copy))~~ of the notification, all amendments to the notification, and the asbestos survey shall be available for inspection at all times at the asbestos project or demolition site.

(7) A ~~((property owner may file))~~ notification for multiple asbestos projects or demolitions may be submitted on one form if ~~((all the following criteria are met:~~

~~((A) The work will be performed continuously by the same contractor;~~

~~((B) The))~~ the structures are located in a contiguous area ~~((; and~~

~~((C) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of friable, asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided, the asbestos contractor and/or the demolition contractor shall participate in the Agency's work schedule fax program and will continue to participate in the program throughout the duration of the project.))~~

(8) Annual Notification

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

(A) The annual notification shall be filed with the Agency before commencing work on any asbestos project included in an annual notification;

(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section is less than 260 linear feet on pipes and/or less than 160 square feet on other components; and

(C) The property owner submits quarterly written reports to the Control Officer on Agency-approved forms within 15 days after the end of each calendar quarter.

(b) Amendments

(1) ~~((Mandatory Amendments))~~

An amendment shall be submitted to the Control Officer ~~((for the following changes))~~ in a notification through the Agency website for the following changes and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this ~~((R))~~ regulation ~~((unless prior arrangements for payment have been made with the Agency))~~:

(A) Changes between asbestos and demolition project types:

~~((A))~~ (B) Increases in the ~~((project type or))~~ job size category that increase the fee;

~~((B) Changes in the type of friable, asbestos-containing material that will be removed; or))~~

~~((C) Changes in the start date(;) or (completion date, or work schedule, including hours of work. Asbestos contractors or property owners participating in the Agency work schedule fax program are not required to submit amendments for work schedule changes occurring between the start and completion dates.))~~

(D) Changes in the completion date.

(2) Amendments may not be used to add or change project site addresses listed on a previously submitted notification.

~~((2)) Optional Amendments~~

~~((A) An amendment may be submitted to the Control Officer for any other change in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency.~~

~~((B) Contractors and property owners participating in the Agency work schedule fax program may, within 45 days after the last completion date on record, submit an amendment to~~

~~the Control Officer for the removal of additional, friable, asbestos-containing material not identified during the asbestos survey. If more than 45 days have lapsed since the last completion date on record, the requirements of Section 4.03(a), including notification periods and fees, shall apply.~~

~~(3) Additional structures may not be added to a notification by amendment.)~~

(c) Emergencies

~~((The Control Officer may waive the advance notification period, if the property owner submits a written request that demonstrates to the Control Officer that))~~

(1) The waiting period may be waived if an asbestos project or demolition must be conducted immediately because of any of the following:

~~((1)) (A) There was a sudden, unexpected event that resulted in a public health or safety hazard;~~

~~((2)) (B) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;~~

~~((3)) (C) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or~~

~~((4)) (D) The project must proceed to avoid imposing an unreasonable burden.~~

(2) The waiting period and fees may be waived for disposal of abandoned (without the knowledge or consent of the property owner) friable, asbestos-containing material by written approval of the Control Officer.

((d) Notification Period and Fees

Project	Notification Period	Non-Refundable Fee	Demolition-Surcharge**
Single Family Residence			
— Asbestos Project*	prior notice	\$25	
— Demolition (with or without asbestos project)	10 days	\$50	
All Other Demolitions (without asbestos project)	10 days	\$50	
All Other Asbestos Projects			
— 10 - 259 linear ft* and/or	prior notice (asbestos only)	\$50	
— 48 - 159 square ft	10 days (demolition)		\$50
— 260 - 999 linear ft and/or			
— 160 - 4,999 square ft	10 days	\$200	\$50
— 1,000+ linear ft and/or			
— 5,000+ square ft	10 days	\$600	\$50
		applicable fees	
Emergency— 4.03(c)***	prior notice	+\$50	
Amendment— 4.03(b)	prior notice	\$25	
Annual Notice— 4.03(a)(8)	prior notice	\$1,000	

*Contractors participating in the Agency work schedule fax program are not required to file a Notice of Intent for asbestos removals in this project category and no fee will be assessed.

**Additional fee for demolitions. All demolitions require a Notice of Intent and a 10-day notification period unless waived per Section 4.03(e).

***The 10-day notification period may be waived per Section 4.03(e) and with payment of the applicable fees + \$50. Single-family residences are exempt from the emergency fee; however, property owners must still provide a written request per Section 4.03(e).

(d) Waiting Period and Fees

Project	Waiting Period	Asbestos Fee	Demolition Fee
<u>Single-Family Residence:</u>			
• <u>Asbestos Project</u>	<u>prior written notification</u>	<u>\$25</u>	
• <u>Demolition (with or without asbestos project)</u>	<u>10 days</u>	<u>\$0</u>	<u>\$50</u>
<u>Other than Single-Family Residence:</u>			
• <u>less than 10 linear ft and/or</u> • <u>less than 48 square ft</u>	<u>10 days for demolition</u>	<u>\$0</u>	<u>\$50</u>
• <u>10 - 259 linear ft and/or</u> • <u>48 - 159 square ft</u>	<u>prior written notification for asbestos</u> <u>10 days for demolition</u>	<u>\$50</u>	<u>\$50</u>
• <u>260 - 999 linear ft and/or</u> • <u>160 - 4,999 square ft</u>	<u>10 days</u>	<u>\$200</u>	<u>\$50</u>

<u>Project</u>	<u>Waiting Period</u>	<u>Asbestos Fee</u>	<u>Demolition Fee</u>
• <u>1,000 + linear ft and/or 5,000 + square ft</u>	<u>10 days</u>	<u>\$600</u>	<u>\$50</u>
<u>Emergency - 4.03(c)*</u>	<u>prior written notification</u>	<u>applicable fees + \$50</u>	
<u>Amendment - 4.03(b)</u>	<u>prior written notification</u>	<u>applicable fees + \$25</u>	
<u>Annual Notice of Intent - 4.03 (a)(8)</u>	<u>prior written notification</u>	<u>\$1,000</u>	

*Single-family residences are exempt from the emergency fee.

~~((The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) friable, asbestos-containing material.))~~

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 27, 2007.

Bonnie B. Bunning
Executive Director of
Policy and Administration

WSR 07-08-021
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed March 27, 2007, 11:29 a.m., effective April 27, 2007]

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

Purpose: The changes will update the department's State Environmental Policy Act (SEPA) policies and procedures (chapter 332-41 WAC), which haven't had comprehensive updates since 1984. The proposed changes include clarifying the language, updating references to recodified rules and statutes, writing rules to help meet the governor's plain talk initiative and removing redundancies between the department of ecology's (ecology's) SEPA rules (chapters 197-11 WAC and 43.21C RCW).

Citation of Existing Rules Affected by this Order: Repealing WAC 332-41-420, 332-41-508 and 332-41-920; and amending WAC 332-41-010, 332-41-020, 332-41-040, 332-41-055, 332-41-310, 332-41-350, 332-41-504, 332-41-510, 332-41-665, 332-41-833, and 332-41-910.

Statutory Authority for Adoption: Chapters 43.21C, 34.05 RCW, WAC 197-11-902(2), [197-11]-904(1).

Other Authority: Delegation Order, November 5, 2001: Signature authority to adopt rules.

Adopted under notice filed as WSR 07-03-042 on January 11, 2007.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 11, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 11, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-010 Authority. The department of natural resources adopts these rules ((are promulgated)) under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-020 Adoption by reference. The department of natural resources adopts the following sections or subsections of chapter 197-11 WAC by reference.

WAC

- 197-11-040 Definitions.
- 197-11-050 Lead agency.
- 197-11-055 Timing of the SEPA process.
- 197-11-060 Content of environmental review.
- 197-11-070 Limitations on actions during SEPA process.
- 197-11-080 Incomplete or unavailable information.
- 197-11-090 Supporting documents.
- 197-11-100 Information required of applicants.
- 197-11-300 Purpose of this part.
- 197-11-305 Categorical exemptions.
- 197-11-310 Threshold determination required.
- 197-11-315 Environmental checklist.
- 197-11-330 Threshold determination process.
- 197-11-335 Additional information.
- 197-11-340 Determination of nonsignificance (DNS).
- 197-11-350 Mitigated DNS.
- 197-11-360 Determination of significance (DS)/initiation of scoping.
- 197-11-390 Effect of threshold determination.
- 197-11-400 Purpose of EIS.
- 197-11-402 General requirements.
- 197-11-405 EIS types.
- 197-11-406 EIS timing.
- 197-11-408 Scoping.
- 197-11-410 Expanded scoping. (Optional)
- 197-11-420 EIS preparation.
- 197-11-425 Style and size.
- 197-11-430 Format.
- 197-11-435 Cover letter or memo.

197-11-440	EIS contents.	197-11-756	Lands covered by water.
197-11-442	Contents of EIS on nonproject proposals.	197-11-758	Lead agency.
197-11-443	EIS contents when prior nonproject EIS.	197-11-760	License.
197-11-444	Elements of the environment.	197-11-762	Local agency.
197-11-448	Relationship of EIS to other considerations.	197-11-764	Major action.
197-11-450	Cost-benefit analysis.	197-11-766	Mitigated DNS.
197-11-455	Issuance of DEIS.	197-11-768	Mitigation.
197-11-460	Issuance of FEIS.	197-11-770	Natural environment.
197-11-500	Purpose of this part.	197-11-772	NEPA.
197-11-502	Inviting comment.	197-11-774	Nonproject.
<u>197-11-504</u>	<u>Availability and cost of environmental documents.</u>	197-11-776	Phased review.
<u>197-11-510</u>	<u>Public notice.</u>	197-11-778	Preparation.
197-11-535	Public hearings and meetings.	197-11-780	Private project.
197-11-545	Effect of no comment.	197-11-782	Probable.
197-11-550	Specificity of comments.	197-11-784	Proposal.
197-11-560	FEIS response to comments.	197-11-786	Reasonable alternative.
197-11-570	Consulted agency costs to assist lead agency.	197-11-788	Responsible official.
197-11-600	When to use existing environmental documents.	197-11-790	SEPA.
197-11-610	Use of NEPA documents.	197-11-792	Scope.
197-11-620	Supplemental environmental impact statement—Procedures.	197-11-793	Scoping.
197-11-625	Addenda—Procedures.	197-11-794	Significant.
197-11-630	Adoption—Procedures.	197-11-796	State agency.
197-11-635	Incorporation by reference—Procedures.	197-11-797	Threshold determination.
197-11-640	Combining documents.	197-11-799	Underlying governmental action.
197-11-650	Purpose of this part.	197-11-800	Categorical exemptions.
197-11-655	Implementation.	197-11-810	Exemptions and nonexemptions applicable to specific state agencies.
197-11-660	Substantive authority and mitigation.	197-11-830	Department of natural resources.
197-11-680	Appeals.	197-11-880	Emergencies.
197-11-700	Definitions.	197-11-890	Petitioning DOE to change exemptions.
197-11-702	Act.	197-11-900	Purpose of this part.
197-11-704	Action.	197-11-912	Procedures ((of)) of consulted agencies.
197-11-706	Addendum.	197-11-914	SEPA fees and costs.
197-11-708	Adoption.	197-11-916	Application to ongoing actions.
197-11-710	Affected tribe.	197-11-920	Agencies with environmental expertise.
197-11-712	Affecting.	197-11-922	Lead agency rules.
197-11-714	Agency.	197-11-924	Determining the lead agency.
197-11-716	Applicant.	197-11-926	Lead agency for governmental proposals.
197-11-718	Built environment.	197-11-928	Lead agency for public and private proposals.
197-11-720	Categorical exemption.	197-11-930	Lead agency for private projects with one agency with jurisdiction.
197-11-722	Consolidated appeal.	197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-724	Consulted agency.	197-11-934	Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-726	Cost-benefit analysis.	197-11-936	Lead agency for private projects requiring licenses from more than one state agency.
197-11-728	County/city.	197-11-938	Lead agencies for specific proposals.
197-11-730	Decision maker.	197-11-940	Transfer of lead agency status to a state agency.
<u>197-11-732</u>	<u>Department.</u>	197-11-942	Agreements on lead agency status.
197-11-734	Determination of nonsignificance (DNS).	197-11-944	Agreements on division of lead agency duties.
197-11-736	Determination of significance (DS).	197-11-946	DOE resolution of lead agency disputes.
197-11-738	EIS.	197-11-948	Assumption of lead agency status.
197-11-740	Environment.	197-11-960	Environmental checklist.
197-11-742	Environmental checklist.	197-11-965	Adoption notice.
197-11-744	Environmental document.	197-11-970	Determination of nonsignificance (DNS).
197-11-746	Environmental review.		
(197-11-748)	Environmentally sensitive area.)		
197-11-750	Expanded scoping.		
197-11-752	Impacts.		
197-11-754	Incorporation by reference.		

197-11-980	Determination of significance and scoping notice (DS).
197-11-985	Notice of assumption of lead agency status.
197-11-990	Notice of action.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-040 Additional definitions. In addition to the definitions contained in WAC 197-11-700 through 197-11-799, the following terms shall have the listed meanings:

(1) "Assistant ((area) region manager" means a principal assistant to ((an area) a region manager with responsibility for either ((area governmental)) regulatory or proprietary programs.

(2) ((Area manager means the person responsible for the administration of a geographic field unit, as designated by the organization plan of the department.

(~~3~~) "Commissioner" means the commissioner of public lands, who is the administrator of the department of natural resources as established by chapter 43.30 RCW.

~~((4) Department means the Washington state department of natural resources.~~

~~(5)~~ (3) "Division" means any one of the ((eleven)) principal units of ((the department's headquarters staff administering)) DNR that administers a program and is designated on DNR's management chart as a "division."

~~((6))~~ (4) "Division manager" means the person with overall responsibility for the functioning of one of ((the eleven)) DNR's divisions.

~~((7))~~ (5) "DNR" means the Washington state department of natural resources.

(6) "Environmental coordinator" means the ((person who coordinates)) DNR's designated SEPA environmental assistant division manager, and designees such as DNR SEPA center personnel, designated to help the responsible official comply with SEPA ((compliance)) procedures for ((the department)) DNR.

~~((8))~~ (7) "Notice of final determination" means a DNR document that provides the status of a threshold determination and states whether a threshold determination was retained as final, modified, withdrawn, or delayed.

(8) "Proponent" means applicant, as defined in WAC 197-11-716, or a party with a proposal, as defined in WAC 197-11-784.

(9) "Public lands" means ((state forest lands as described in chapter 76.12 RCW, and lands belonging to or held in trust by the state of Washington as described in RCW 79.01.004)) lands of the state of Washington administered by DNR, including but not limited to state lands, state forest lands, and aquatic lands as defined in chapters 79.02, 79.70 and 79.71 RCW.

(10) "Region manager" means the person responsible for the administration of a geographic field unit, as designated by the management organizational chart of DNR. They supervise assistant region managers.

(11) "SEPA center" means the DNR section responsible for printing, mailing, retaining SEPA documents, and coordination of the SEPA process. The SEPA center is located at

Washington Department of Natural Resources, 1111 Washington Street S.E., Olympia, Washington 98504-7015.

(12) "State forest lands" means lands acquired under RCW 79.22.010, 79.22.020, and 79.22.040.

(13) "State-owned aquatic lands" means all tidelands, shorelands, harbor areas, the beds of navigable waters, and waterways owned by the state and administered by DNR or managed under RCW 79.105.420 by a port district and as defined in RCW 79.105.060.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-055 ((Timing of the SEPA process)) Additional timing considerations. ~~((1) Distribution to planning commissions and advisory bodies. Environmental documents required to be submitted to the department of ecology under provisions of WAC 332-41-508 will also be submitted to affected planning commissions and similar advisory bodies within the respective time frames as established by these rules and chapter 197-11 WAC.~~

(2) Timing of review of proposals. Environmental reviews will be made upon receipt of a completed permit application and environmental checklist.

(3) Additional timing considerations.

(a) Department staff receiving a completed permit application and environmental checklist should determine whether DNR or another agency is SEPA lead agency (see WAC 197-11-050 and 197-11-922 through 197-11-940) within five working days. If DNR is not the lead agency, the staff person shall notify the environmental coordinator, who will send the completed environmental checklist, and a copy of the permit application, to the lead agency, and an explanation of the determination to the identified lead agency.

(b) Department staff receiving a permit application will determine whether the proposal is an "action" and, if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the staff person will ask the applicant to complete an environmental checklist. A checklist is not needed if the department and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application.

~~((e))~~ (1) **How does this section relate to WAC 197-11-055?** This section integrates SEPA review into DNR's activities consistent with WAC 197-11-055, which DNR has incorporated by reference.

(2) **What are DNR's SEPA considerations prior to issuance of the threshold determination?** DNR should conduct SEPA review consistent with the following guidelines:

(a) **When is lead agency determined?** DNR should determine whether DNR or another agency is the SEPA lead agency within five working days of receiving the nonexempt proposal. See WAC 197-11-050 and 197-11-922 through 197-11-940. If DNR is not the lead agency, DNR shall send the complete environmental checklist and a copy of the permit application or proposal to the lead agency with an explanation of why DNR identified the agency as the lead agency.

(b) When is exempt status determined? When DNR receives a permit application or proposal, the agency shall promptly determine whether DNR's SEPA action is "categorically exempt" or statutorily exempt from SEPA. If exempt, and WAC 197-11-305 does not remove categorical exempt status, DNR has no further obligation under SEPA.

(c) Under what circumstances does DNR request an environmental checklist? If DNR's action is not exempt and DNR is the lead agency, DNR shall ask the proponent to complete an environmental checklist.

(d) When does DNR not need an environmental checklist? A checklist is not needed if DNR and the proponent agree an EIS is required, SEPA compliance has been completed, or a NEPA document was completed and found adequate for SEPA requirements.

(e) When will DNR start environmental review of non-DNR proposals? DNR shall start a threshold environmental review when DNR receives an application and associated completed environmental checklist.

(f) When will DNR start environmental review of DNR proposals? DNR should commence the threshold environmental review of DNR proposals that do not involve a DNR permit when a completed checklist is submitted and the principal features of the proposal and its environmental impacts can be reasonably identified.

(3) When may an applicant request preliminary SEPA review and what are the consequences? ~~((If the department's))~~ DNR shall accept applicant requests for preliminary environmental review before requiring detailed project plans and specifications when DNR's only action is a decision on a permit that requires detailed project plans and specifications ~~(, the department shall provide, upon request by the applicant,))~~. DNR may accept other applicant requests for preliminary environmental review ~~((prior to submittal of detailed plans and specifications))~~ when DNR deems it appropriate. This preliminary review will be advisory only and not binding on the department. Final review and determination will be made only upon receipt of all essential detailed project plans and specifications ~~((if these are essential to a meaningful environmental analysis))~~. DNR shall conduct a preliminary environmental review when it receives a request for preliminary review along with the following information:

(a) Site-specific maps containing clear proposal boundaries and clear topographic details;

(b) Complete and accurate description of the proposal; and

(c) Any other information that may be required under WAC 197-11-100 and 197-11-335.

(4) When should DNR commence internal SEPA discussions regarding DNR proposals? If DNR initiated the environmental action, DNR shall coordinate among appropriate staff, including the SEPA center, as necessary. SEPA discussions should be coordinated with staff as soon as a proposal starts being developed.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-310 Threshold determination required.
~~((1) A threshold determination is required for any proposal~~

~~which meets the definition of action and is not categorically exempt.~~

~~(2) The responsible official of the department shall make the threshold determination, which shall be made as close as possible to the time an agency has developed or is presented with a proposal (WAC 197-11-784).~~

~~(3)) (1) What are the timing requirements for threshold determinations?~~ WAC 197-11-310 requires that a threshold determination (either of nonsignificance or significance) be made no later than ninety days after the application and supporting documentation are determined to be complete. In most cases, ~~((the time to))~~ DNR should complete a threshold determination ~~((should not exceed))~~ within fifteen days, if possible, except for Class IV ~~((special))~~ forest practices, in which case the threshold determination ~~((will))~~ shall be made within ten days of receiving a complete application, including a complete environmental checklist. Complex proposals, those where additional information is needed, and/or those accompanied by an inaccurate checklist may require additional time. Upon request by ~~((an applicant))~~ a proponent, the responsible official shall select a date for making the threshold determination and notify the ~~((applicant))~~ proponent of such date in writing.

~~((4) All threshold determinations shall be documented in:~~

~~(a) A determination of nonsignificance (DNS) (WAC 197-11-340); or~~

~~(b) A determination of significance (DS) (WAC 197-11-360);~~ (2) **When should DNR issue a notice of final determination?** A notice of final determination should be issued after the SEPA comment period for an initial determination of nonsignificance.

(a) This notice should document whether the determination has been:

(i) Retained;

(ii) Modified;

(iii) Delayed; or

(iv) Withdrawn.

(b) After an initial threshold determination is delayed, another notice of final determination should be issued to identify whether the proposal has been retained, modified or withdrawn.

(c) Any notice of final determination should be sent to the original mailing list for the proposal and to any additional parties that commented on the proposal.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-350 Mitigated determination of nonsignificance (DNS). (1) ~~((An applicant))~~ **How may a proponent request an early notice of a determination of significance (DS)?** When DNR is the lead agency, a proponent may ask ~~((the department))~~ DNR whether issuance of a DS is likely for a proposal. ~~((This))~~ A non-DNR request for early notice must satisfy three requirements. The request:

~~((Be written;))~~ Must be in writing;

(b) Shall follow submission of a permit application, if applicable, and environmental checklist ((for a nonexempt proposal for which the department is lead agency)); and

~~(c) ((Precede the department's actual))~~ Must be received by DNR before DNR issues an initial threshold determination for the proposal.

(2) **How should DNR respond to an early notice request?** The responsible official or designee ~~((shall))~~ should respond to ~~((the))~~ a request for early notice within ten ~~((working))~~ business days of receipt ~~((of the letter;))~~. DNR should respond to a forest practices applicant as soon as possible because RCW 76.09.050 only allows ten days to conduct a threshold evaluation. If DNR is not the proposal's proponent, the response shall meet the following requirements:

(a) ~~((Be written;))~~ The response must be in writing;

(b) The response shall state whether ~~((the department))~~ DNR is considering issuance of a DS;

(c) The response shall indicate the general or specific area(s) of concern that led ~~((the department))~~ DNR to consider a DS; and

(d) The response shall state that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) ~~((The department))~~ **How should early review requests and responses to DNR proposals be processed?** If a project leader from within DNR requests early notice, it is advisable that both the request and the response be documented in writing for tracking purposes.

(4) **What is the review process for proposals pending a request for early notice?** DNR shall ~~((not))~~ continue ~~((with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.~~

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the department will make its threshold determination based on the changed or clarified proposal)) to conduct SEPA review on the originally submitted proposal until a proposal's proponent requests, in writing, that the proposal be changed or clarified.

(5) **What should DNR review when changes or clarifications are added to a proposal?** If a proponent submits changes or clarifications under this section, DNR shall review these changes or clarifications as part of the proposal.

(a) If ~~((the department's))~~ DNR's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the ~~((applicant))~~ proponent changes or clarifies the proposal to include all of those specific mitigation measures, ~~((the department))~~ DNR shall issue a determination of nonsignificance and circulate the DNS for comments as in WAC 197-11-350~~((2))~~.

(b) If ~~((the department indicated))~~ DNR indicates general or specific areas of concern, but ~~((did))~~ does not indicate specific mitigation measures that would allow it to issue a DNS, ~~((the department))~~ DNR shall determine if the changed or clarified proposal may have a probable significant environmental impact, ~~((issuing))~~ and issue a DNS or DS, as appropriate.

~~((5))~~ (6) **May DNR propose mitigation to reduce impacts of the proposal?** Even without a

request for early notice, DNR may specify mitigation measures that would allow ~~((it))~~ DNR to issue a DNS ~~((without a request for early notice from an applicant))~~. If ~~((it does so, and the applicant))~~ a proponent changes or clarifies the proposal to include ~~((those))~~ DNR's proposed measures, ~~((the department))~~ DNR shall issue a DNS consistent with WAC 197-11-350 and circulate it for review ~~((under WAC 197-11-350(2))~~.

~~((6))~~ (7) **How may a proponent change a proposal?** When ~~((an applicant))~~ a proponent changes or clarifies the proposal, the ~~((clarifications or))~~ changes or clarifications may be ~~((included in written))~~ added as attachments to ~~((the))~~ previously submitted documents ~~((already submitted))~~. If the environmental checklist and supporting documents would be difficult to read and/or understand ~~((because of the need to read them))~~ in conjunction with the attachment(s), ~~((the department))~~ DNR may require the applicant to submit a new checklist.

~~((7))~~ (8) **May DNR change its own proposals?** DNR may change or clarify features of its own proposals before making the threshold determination consistent with WAC 197-11-350.

~~((8))~~ (9) **What is the effect of preliminary discussions?** DNR's indication that a DS appears likely shall not be construed as a determination of significance. ~~((In addition;))~~ DNR's preliminary discussion of possible clarification ~~((of))~~ or changes ~~((to a proposal, as opposed to a written request for early notice,))~~ shall not bind ~~((the department to consider the clarification or changes in its threshold determination))~~ DNR in making a determination of nonsignificance.

~~((9))~~ (10) **When should DNR issue a notice of final determination for a mitigated determination of nonsignificance?** DNR should issue a notice of final determination after the SEPA comment period has ended. This notice should document whether the determination has been:

(a) Retained;

(b) Modified;

(c) Delayed; or

(d) Withdrawn.

(i) If an initial threshold determination is delayed, DNR should issue another notice of final determination to identify whether the proposal has been retained, modified or withdrawn.

(ii) DNR should send any notice of final determination to the original mailing list for the proposal and any additional parties that commented on the proposal.

NEW SECTION

WAC 332-41-421 EIS preparation under DNR direction. DNR normally requires a proponent to prepare or help

prepare draft, final, and supplemental EISs at the proponent's expense. An outside consultant may be used to complete an EIS only if DNR and the proponent mutually agree upon the consultant. Any proponent or consultant preparing an EIS shall do so under DNR's direction.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-504 Availability, distribution, and costs of environmental documents. (1) **Where are SEPA documents retained?** SEPA documents required by these rules shall be retained by ~~((the department))~~ DNR at the SEPA ~~((public information))~~ center, and made available in accordance with chapters 42.17 RCW and 197-11 WAC, Part V.

(2) ~~((The department shall make copies of environmental documents available in accordance with chapter 42.17 RCW, charging only those costs allowed plus mailing costs. Allowable costs for environmental documents may be indicated in the documents and made payable to the department. However, no charge shall be levied for circulation of documents to other agencies as required by these rules. If requested, the department will normally waive the charge for an environmental document provided to a public interest organization.))~~

How does DNR distribute SEPA documents? When DNR is the lead agency, DNR personnel shall distribute SEPA documents as required by chapter 197-11 WAC unless another agency is nominal co-lead with DNR. The following are acceptable methods of distribution:

(a) E-mail environmental documents including attached checklists and backup materials provided the recipient agency or interested party has made its e-mail address available to DNR;

(b) Mail environmental documents, including attached checklists and backup materials, on CDs or as hardcopies to agency mailing lists that include either general lists or lists for specific proposals or subject areas.

(3) **May DNR charge for multiple copies?** A requestor asking for additional hard copies of a SEPA document may be required to pay additional copying fees per WAC 197-11-504, 332-10-090 and 332-10-170, and RCW 42.17.300.

NEW SECTION

WAC 332-41-505 Notice of environmental documents. (1) **What documents will be submitted to the department of ecology?** As required under WAC 197-11-508 for state agencies, DNR shall submit the following environmental documents to the department of ecology for publication in the SEPA register:

- (a) DNSs under WAC 197-11-340;
- (b) DSs (scoping notices) under WAC 197-11-408;
- (c) EISs under WAC 197-11-455, 197-11-460, and 197-11-620;
- (d) Adoption Notices to the extent required by WAC 197-11-610 and 197-11-630; and
- (e) Notices of action under RCW 43.21C.080 and 43.21C.087.

(2) **What is the timing to submit documents to the SEPA register?** DNR shall submit the environmental documents listed in subsection (1) of this section promptly and in

accordance with procedures established by the department of ecology. According to WAC 197-11-340, DNR shall send the document to the department of ecology on the date of issue of the threshold determination.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-510 Public notice requirements. (1) ~~((The department))~~ **What are DNR's reasonable notice requirements?** DNR shall ~~((give))~~ use reasonable methods to inform the public ~~((notice))~~ when ~~((issuing))~~ DNR issues a DNS under WAC 197-11-340~~((2))~~, a mitigated DNS under WAC ~~((332-41-350))~~ 197-11-350, a scoping notice under WAC ~~((332-41-360))~~ 197-11-360, ~~((or))~~ a draft EIS under WAC 197-11-455, a draft supplemental EIS under WAC 197-11-620, a final EIS under WAC 197-11-460, or when DNR schedules a public hearing under WAC 197-11-502, 197-11-535, and 197-11-610. DNR shall use two or more of the following reasonable methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements associated with DNR's non-SEPA decision (underlying governmental decision), public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Notify persons or groups who have expressed interest in the proposal or in the type of proposal being considered, who have expressed interest in proposals located in the affected geographic area, and who DNR has identified as potentially interested parties;

(b) Publish a notice in a newspaper of general circulation in the area in which the proposal will be implemented;

(c) Post the property with appropriate signage;

(d) Post notices and environmental documents on DNR's SEPA center web site.

(2) **What if there are existing notice procedures regarding DNR's governmental decisions?** Whenever possible, ~~((the department))~~ DNR shall integrate the public notice required under this section ~~((WAC 197-11-340, 197-11-360, 197-11-455, 197-11-502, and 197-11-535))~~ with existing notice procedures for ~~((the department's))~~ DNR permits or approvals required for the proposal. DNR must comply with WAC 197-11-502 (Inviting comment), WAC 197-11-508 (SEPA register), and WAC 197-11-510 (Public notice).

(3) ~~((The department shall use one or more of the following reasonable methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the permit or approval required from the department, public interest expressed in the proposal, and whether the proposal is a project or regulation:))~~

~~((a) Notifying persons or groups who have expressed interest in the proposal, that type of proposal, or proposals in the geographic area in which the proposal will be implemented if approved;~~

~~((b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or~~

~~((c) Posting the property.~~

(4) ~~The department may require an applicant to perform the public notice requirement at his or her expense.~~) **How are watershed analysis public notices issued?** To receive forest practice approval, DNR allows thirty days to review and provide public input on proposed watershed prescriptions. DNR through its SEPA center must also give public notice and provide for public comments on a nonproject SEPA review of the proposed watershed analysis to assess environmental impacts as provided under RCW 43.21C.260. As directed in subsections (1) and (2) of this section for providing public notice, DNR uses two concurrent pathways to solicit public comment on watershed analysis. DNR requests public comments to be:

(a) Sent to DNR on watershed analysis prescriptions consistent with forest practice rules under WAC 222-10-035 and 222-22-080; and

(b) Sent to the SEPA center on environmental impacts consistent with SEPA.

AMENDATORY SECTION (Amending Order 607, filed 12/21/92, effective 1/21/93)

WAC 332-41-665 Policies and procedures for conditioning or denying permits or other approvals. (1) ~~((Policies—specific. The department))~~ **What are DNR's specific policies for conditioning or denying permits or approvals?** DNR adopts the following SEPA policies:

(a) Geothermal resources. ~~((The department))~~ DNR recognizes the need to protect the public from geothermal drilling effects such as the contamination of the ground water, the surface water, the possibility of a blowout, fire hazards, drilling fluids, and surface disturbance. ~~((The department))~~ DNR may, when necessary, condition the following ~~((actions))~~ **aspects of a drilling operation** to mitigate specific adverse environmental impacts:

- (i) Location of the well;
- (ii) Casing program;
- (iii) Makeup of drilling fluids.

(b) Surface mining. To provide that the usefulness, productivity, and scenic values of all lands and waters involved in surface mining within the state will receive the greatest practical degree of protection and restoration, the following aspects of surface mining may be conditioned:

(i) Proposed practices to protect adjacent surface resources, including but not limited to soil and water;

(ii) Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;

(iii) Matter and type of revegetation or other surface treatment of disturbed areas;

(iv) Method of prevention or elimination of conditions that will create a public nuisance, endanger public safety, damage property, or ~~((be hazardous to vegetative))~~ pose a hazard to plant, animal, fish, or human life in or adjacent to the area;

(v) Method of control of contaminants and disposal of surface mining refuse;

(vi) Method of diverting surface waters around the disturbed areas;

(vii) Method of restoration of stream channels and stream banks to a condition minimizing erosion and siltation and other pollution.

(c) Upland and aquatic right of way grants. Recognizing that construction and/or reconstruction under upland and aquatic right of way grants can create adverse impacts to the elements of the environment, it is the policy of ~~((the department))~~ DNR to condition grants where necessary and where allowed by state and federal law:

(i) To protect all surface resources including but not limited to soil and water, through authorized right of way operations on public lands, and to cause on a continuing basis the rehabilitation or reestablishment ~~((on a continuing basis))~~ of the vegetative cover, soil stability and water condition appropriate to intended subsequent use of the area;

(ii) To meet air quality standards; ~~((and))~~

(ii) To protect recreational and special use areas under lease ~~((by requiring mitigating action)); and~~

(iv) To meet obligations under DNR's habitat conservation plans, any amendments to DNR's habitat conservation plans, or the *Policy for Sustainable Forests* adopted in 2006, and any future updates to the policy.

(d) ~~((Marine))~~ State-owned aquatic lands. In managing state-owned aquatic lands, ~~((the department))~~ DNR shall consider the natural values of state-owned aquatic land such as wildlife habitat, natural area preserves, representative ecosystems, or spawning area prior to issuing any initial lease or authorizing any change in use. ~~((The department may withhold))~~

(i) DNR may refrain from leasing lands ~~((which))~~ that it finds to have significant natural values, as described in this subsection, or may provide within any lease for the protection of such values.

(ii) DNR may condition its proposals to meet its obligations under any future aquatic habitat conservation plan, or any amendments to DNR's aquatic habitat conservation plans.

(e) Public lands leases and contracts. Under authority granted by chapters ~~((76.12, 79.01, 79.08, 79.12, 79.14, and 79.28 RCW, the department has authority to set terms and conditions in granting a lease or contract as long as such terms and conditions are not inconsistent))~~ 79.02, 79.13, 79.14, 79.15, 79.22 and 79.105 RCW, DNR may set any lease or contract terms and conditions that are consistent with state law. For public lands, ~~((the department))~~ DNR may condition or withhold a lease or contract where significant adverse environmental impacts associated with a lease proposal or contract proposal will occur. DNR may condition its proposals to meet its obligations under any current or future habitat conservation plan, or any amendments to DNR's habitat conservation plans, or the *Policy for Sustainable Forests* adopted in 2006, and any future updates to the policy.

(f) Timber sales. Department policies for the sale of timber from public lands are found ~~((in the Forest Resource Plan, adopted July 1992))~~ under DNR's habitat conservation plans, any amendments to DNR's habitat conservation plans, or in the *Policy for Sustainable Forests* adopted in 2006 and any future updates to the policy.

(g) Forest practices. ~~((A Class IV Special forest practice approval will be conditioned when necessary to mitigate spe-~~

specific adverse impacts which are identified in the environmental documents prepared under SEPA. An application for a Class IV Special forest practice will be denied when the proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under SEPA, and reasonable mitigation measures are insufficient to mitigate the identified impacts and denial is inconsistent with chapters 43.21C and 76.09 RCW and chapter 197-11 WAC.

(h) Fire control:

(i) Burning permits. The department may condition or deny the issuance of a burning permit for the protection of life, property, or air quality standards.

(ii) Dumping permits. The department may condition or deny the issuance of a dumping permit for the protection of forest lands from fire.) SEPA policies related to the review of environmental impacts, conditioning, and disapproval of forest practices are adopted by the forest practices board and are contained in chapter 222-10 WAC. WAC 222-10-010 adopts by reference policies of SEPA as set forth in RCW 43.21C.020. WAC 222-10-050 adopts by reference the SEPA Rules adopted by the state of Washington department of ecology, chapter 197-11 WAC, except those rules that may not be applicable.

(2) ~~((Policies general.))~~ **What are DNR's general policies for conditioning or denying permits or approvals?** The policies set out in subsection (1) of this section do not anticipate all situations which may result in placing conditions on a permit or denial of a proposal(;) following environmental review. ~~((The department))~~ DNR therefore adopts the policies set forth in the State Environmental Policy Act, RCW 43.21C.020, as further basis for conditioning or denying a public or private proposal under SEPA. Those policies are to:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) ~~((Decisions to condition or deny.~~

~~(a) When the environmental document for a proposal shows it will cause adverse impacts that the proponent does not plan to mitigate the decision maker shall consider whether:~~

~~(i) The environmental document identifies mitigation measures that are reasonable and capable of being accomplished;~~

~~(ii) Other local, state, or federal requirements and enforcement would mitigate the significant adverse environmental impacts; and~~

~~(iii) Reasonable mitigation measures are sufficient to mitigate the adverse impacts.~~

~~(b) The decision maker may:~~

~~(i) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal, without such mitigation measures, is inconsistent with the policies in subsections (1) and (2) of this section;~~

~~(ii) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsections (1) and (2) of this section.~~

~~(iii) The procedures in WAC 197-11-660 must be followed when conditioning or denying permits or other approvals.)~~ **What procedures must DNR follow to condition or deny a proposal?** DNR must follow the procedures in RCW 43.21C.060 and WAC 197-11-660 when conditioning or denying permits or other approvals under SEPA. Conditioning must be in writing and may be added only to mitigate specific adverse environmental impacts that are identified in the environmental document. To deny a proposal under SEPA, DNR must find that the proposal will result in significant adverse impacts as identified in a final EIS or final supplemental EIS, and that reasonable mitigation measures are insufficient to mitigate any identified impact.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-833 Timber sales categories. (1) **What is DNR's authority to determine which timber sale decisions are exempt from SEPA review?** Under ~~((the provisions of))~~ WAC 197-11-830~~((the department))~~ DNR may determine which decisions to sell timber from public lands do not have potential for significant impact on the environment. Such decisions are categorically exempt from the threshold determination and EIS requirements of SEPA under WAC 197-11-830~~((7))~~. This determination applies only to DNR's decision to sell timber harvested from public lands not requiring approval from the board of natural resources.

(2) ~~((The department determines that such decisions to sell timber from public lands do not have potential for a significant impact on the environment if they are sales appraised by the department at an amount not exceeding the amount specified in RCW 79.01.200 as the upper limit for sale under terms and conditions prescribed by the department, and if such sales, other than thinning or salvage sales, do not involve harvest units larger than twenty acres.))~~ **What is the threshold for determining that timber sale decisions are exempt from SEPA?**

(a) The following DNR timber sale decisions do not have a potential for significant impact on the environment and are categorically exempt from SEPA:

(i) Timber sales containing harvest units of less than twenty acres that DNR appraises to be less than the amount specified in RCW 79.11.130; and

(ii) Thinning or salvage timber sales of any unit size that DNR appraises to be less than the amount specified in RCW 79.11.130.

(b) These sales are small sales not requiring approval by the board of natural resources and have low volume and low acreage. ((The department)) DNR has not extended this determination to sales requiring approval by the board of natural resources because of the public values associated with public lands. However, this determination is not intended to alter ((the department's)) DNR's SEPA compliance responsibility for regulatory decisions concerning forest practice applications for state and private lands under RCW 76.09.050 and WAC 222-16-050.

AMENDATORY SECTION (Amending Order 432, filed 9/5/84)

WAC 332-41-910 Designation of responsible official.

((The responsible official for a specific proposal shall be a division manager or designated area manager or assistant area manager. The responsible official for the harbor line commission shall be the manager of the marine land management division.

(1) Each division manager or designee shall review the environmental checklists under the division's authority and determine if the department is the lead agency. When the department is not the lead agency, the environmental checklists shall be forwarded to the environmental coordinator for processing under procedures set forth in WAC 197-11-924.))

(1) **Who may serve as DNR's SEPA responsible official?** Since the responsible official shall carry out duties and functions for the purpose of assuring DNR's compliance with SEPA and the SEPA rules, it is important that DNR clearly designates who will be the responsible official for a proposal.

(a) DNR's responsible official will be as follows:

(i) Division manager;

(ii) Designated region manager; or

(iii) Designated assistant region manager.

(b) The responsible official for the harbor line commission shall be the division manager of the aquatic resources division.

(c) When the region manager or assistant region manager is involved with the proposal, or during emergencies, i.e., fire season, it may be necessary to assign the responsible official duties for a proposal to a region manager in another region. The division manager may also assume responsible official duties for the proposal.

(d) When potentially significant conflicting DNR interests exist involving DNR proposals that converge at the division manager or region manager level, or the proposal involves more than one region, a superior management-level official may act as the responsible official. See subsection (4) of this section for recommended qualifications.

(2) **What are the responsible official's duties?** When ((the department)) DNR is the lead agency, the responsible ((division manager or designee will)) official shall review the environmental checklist((s)) and make the threshold determination((s under the provisions of)) in compliance with this chapter, chapters 43.21C RCW and 197-11 WAC, and specifically, WAC 197-11-330.

(3) **What other procedural requirements must be followed?** The ((division manager or designee)) responsible official shall carry out further SEPA compliance under WAC 197-11-340, 197-11-350, or 197-11-360, as appropriate. This includes notice and circulation requirements for threshold determinations.

(4) **What are the general qualifications of a DNR responsible official?** The responsible official shall not be the applicant, project leader, or the decision maker for the proposal. The official shall have general technical expertise sufficient to assess the impacts of the proposal.

(5) **What if a determination of significance is issued?** When an environmental impact statement is required based on the threshold determination, scoping and EIS preparation under chapter 197-11 WAC shall ((begin)) occur under direction of the responsible official.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 332-41-420	EIS preparation.
WAC 332-41-508	Notice of environmental documents.
WAC 332-41-920	Agencies with environmental expertise.

**WSR 07-08-023
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-49—Filed March 27, 2007, 11:55 a.m., effective April 27, 2007]

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

Purpose: The amendments to WAC 220-88C-030 Eligibility to participate in the coastal pilchard fishery, modify continuing participation provisions in the coastal pilchard (sardine) fishery to provide greater flexibility for fishers and to maintain eligibility to fish for pilchard in the face of changing market conditions.

Citation of Existing Rules Affected by this Order: Amending WAC 220-88C-030 (Amending Order 06-59, filed 4/3/06, effective 5/4/06).

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Adopted under notice filed as WSR 07-03-032 on January 9, 2007.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: March 27, 2007.

J. P. Koenings
Director

AMENDATORY SECTION (Amending Order 06-59, filed 4/3/06, effective 5/4/06)

WAC 220-88C-030 Eligibility to participate in the coastal pilchard fishery. (1) Beginning in 2007, a coastal pilchard experimental fishery permit will be issued only to a natural person who:

(a) Held such a permit or held a replacement permit the previous year;

(b) ~~((Can demonstrate by valid Washington fish receiving tickets that at least forty metric tons cumulative weight of pilchard taken from Pacific Ocean waters were landed under the person's emerging commercial fishery license during the previous two calendar years;~~

(e)) Has purchased an emerging commercial fisheries license by April 1st; and

~~((c))~~ (c) Has an ownership interest of at least fifty percent in the vessel designated on the emerging commercial fishery license.

(2) Coastal pilchard experimental fishery permits may be revoked by the director, and future permits denied by the director, for failure to comply with conditions specified in the permits or violation of other commercial fishing rules, and shall be revoked if the emerging commercial fishery license is suspended. A coastal pilchard experimental fishery permit will not be renewed if the emerging commercial fishery license is revoked or future fishing privileges of the licensee are suspended.

(3) The director may offer replacement permits, provided that the total number of permits issued by the director, including replacement permits, shall not exceed twenty-five.

(4) A coastal pilchard replacement permit will only be issued to a natural person who:

(a) Has an ownership interest of at least fifty percent in a vessel that was designated on a Washington coastal pilchard experimental fishery permit in 2004 or 2005; and

(b) ~~((Landed a minimum of 40 mt cumulative weight of pilchard into Washington using the designated vessel referenced in (a) of this subsection in 2004 and 2005; and~~

(e)) Has purchased an emerging commercial fisheries license by August 1, 2006.

(5) Coastal pilchard experimental fishery permits and replacement permits are only valid for the year issued and expire with the expiration of the emerging commercial fishery license.

(6) Replacement permit holders must designate a vessel in which the replacement permit holder has an ownership interest of at least fifty percent.

(7) Permit holders must designate a vessel to be used in the coastal pilchard emerging commercial fishery at least forty-eight hours before their first pilchard fishing trip of each season. Once designated, permit holders may not change vessel designation for the remainder of the season, except as provided in subsection (8) of this section in an emergency and then only if allowed by the director. The same vessel may not be designated on more than one emerging commercial fishery license and accompanying coastal pilchard experimental fishery permit.

(8) Vessel designation may be changed during the pilchard season provided that the designated vessel has not yet participated in the pilchard fishery during the current calendar year.

WSR 07-08-026

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed March 27, 2007, 1:23 p.m., effective April 27, 2007]

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

Purpose: Rule making is required to specify signatures that are required for vessel registration to include both in-state and out-of-state signatures of vessel owners on the registration.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-070.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

Adopted under notice filed as WSR 07-03-068 on January 17, 2007.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: March 27, 2007.

Mykel D. Gable
Assistant Director
Vehicle Services

AMENDATORY SECTION (Amending WSR 06-21-025, filed 10/9/06, effective 11/9/06)

WAC 308-93-070 Application for certificate of ownership/registration. (1) **When am I required to register my vessel in Washington?** Current out-of-state or out-of-

country registration will be recognized for a period of sixty days. On or before the sixty-first day, if Washington is to be the principal state of use, you must apply for a Washington state certificate of ownership and/or registration.

(2) **What information must be supplied on an application to obtain a Washington vessel certificate of ownership and/or registration?** Vessel owners applying for certificate of ownership and/or registration of a vessel must submit an application, which includes:

- (a) ~~((Expiration date of the certificate of registration;~~
- ~~((b))~~ The name of each registered owner of the vessel and if the vessel is subject to security interest, the name of each ~~((secured party))~~ legal owner;
- ~~((c))~~ ~~((b))~~ The mailing address ~~((that))~~ for one of the registered owners ~~((regularly receives mail))~~;
- ~~((d))~~ ~~((c))~~ The mailing address of the first ~~((secured party))~~ legal owner (lienholder);
- ~~((e))~~ ~~((d))~~ The Washington registration number ~~((as assigned))~~;
- ~~((f))~~ ~~((e))~~ Make and model year;
- ~~((g))~~ ~~((f))~~ Length of vessel;
- ~~((h))~~ ~~((g))~~ Type of power (gasoline, diesel, etc.);
- ~~((i))~~ ~~((h))~~ Primary use (commercial, pleasure, etc.);
- ~~((j))~~ ~~((i))~~ Primary method of propulsion (inboard, sail, etc.);
- ~~((k))~~ ~~((j))~~ Type of vessel (runabout, cabin, etc.);
- ~~((l))~~ ~~((k))~~ Primary vessel construction (fiberglass, wood, etc.);
- ~~((m))~~ ~~((l))~~ County of moorage;
- ~~((n))~~ ~~((m))~~ Hull identification number ~~((, if one has been assigned))~~;
- ~~((o))~~ ~~((n))~~ Latest purchase price and purchase year or, if the vessel was not acquired by purchase, a declaration of value and year of declaration;
- ~~((p))~~ ~~((o))~~ The signature of all ~~((of the))~~ registered owners.

For the purposes of this section, purchase price or declared value includes the vessel, vessel motor, or engine, and all other equipment and accessories, excluding a boat trailer, purchased or acquired in a single transaction;

~~((q))~~ ~~((p))~~ United States Coast Guard ~~((document))~~ documentation number, if applicable.

(3) **If my vessel is homemade, what information must be supplied on an application for Washington certificate of ownership?** In addition to the information listed above in subsection (2) of this section, upon original application for certificate of ownership and/or registration of a homemade vessel, the owner ~~((shall complete and sign a declaration of value form. The owner's signature must be notarized/certified in accordance with WAC 308-93-470))~~ must provide:

- (a) Certificates of ownership to any vessels used in the construction of the homemade vessel; or
- (b) Bills of sale from the previous registered owners (these must be notarized or certified);
- (c) Bills of sale or invoices for materials or parts used in the construction of the homemade vessel;
- (d) Declaration of Value (TD-420-737). This form is used to establish the value of the vessel;
- (e) Vessel Data Form.

WSR 07-08-027
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket UT-060676, General Order R-540—Filed March 27, 2007, 1:25 p.m., effective April 27, 2007]

In the matter of amending, adopting, and repealing rules relating to chapters 480-80, 480-120, and 480-121 WAC, relating to eliminating the requirement that telecommunications companies file price lists.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under CR-101 Notice WSR 06-10-089, filed with the code reviser on May 3, 2006, CR-102 Notice WSR 06-16-033, filed with the code reviser on July 25, 2006, and supplemental CR-102 Notice WSR 06-21-050, filed with the code reviser on October 13, 2006. The commission initiated this proceeding to revise rules consistent with changes to RCW 80.36.010, 80.36.110, 80.36.320, 80.36.330 and the enactment of RCW 80.36.333 and 80.36.338 during the 2006 legislative session, and pursuant to the commission's authority to adopt rules under RCW 80.01.040 and 80.04.160.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), a summary of the comments received regarding the proposed rule changes, and the commission's responses to the comments reflecting the commission's consideration of them.

5 In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, the documents provide a complete but concise explanation of the agency's actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order amends, adopts, and repeals the following sections of the Washington Administrative Code: Amending WAC 480-80-010 Application of rules, 480-80-015 Exemptions from rules in chapter 480-80 WAC, 480-80-030 Definitions, 480-80-031 Delivery of tariff and contract filings, 480-120-011 Application of rules, 480-120-021 Definitions, 480-120-026 Tariffs, 480-120-028 Registration, 480-120-061 Refusing service, 480-120-102 Service offered, 480-120-103 Application for service, 480-120-104 Information to consumers, 480-120-122 Establishing credit—Residential services, 480-120-161 Form of bills, 480-120-171 Discontinuing service—Customer

requested, 480-120-172 Discontinuing service—Company initiated, 480-120-255 Information delivery services, 480-120-263 Pay phone service providers (PSPs), 480-120-264 Prepaid calling services, 480-120-352 Washington Exchange Carrier Association (WECA), 480-120-436 Responsibility for drop facilities and support structure, 480-120-450 Enhanced 9-1-1 (E911) obligations of local exchange companies, 480-120-540 Terminating access charges, 480-120-560 Collocation, 480-121-011 Application of rules, 480-121-018 Delivery of a filing and 480-121-020 Requirements for applications for registration and petitions for competitive classification; adopting WAC 480-120-266 Information about telecommunications services provided pursuant to competitive classification; and repealing WAC 480-80-201 Use of price lists, 480-80-202 Interpretation and application of price lists, 480-80-203 Transmittal letter, 480-80-204 Price lists format and content, 480-80-205 Effective date of price list filings, 480-80-206 Price list availability to customers, 480-80-241 Filing contracts for services classified as competitive, 480-80-242 Using contracts for services classified as competitive, and 480-120-196 Customer notice requirements—Competitively classified telecommunications companies or services.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on May 3, 2006, at WSR 06-10-089.

8 The statement advised interested persons that the commission was considering changes to rules relating to price lists in light of statutory changes to chapter 80.36 RCW during the 2006 legislative session in which the legislature eliminated the requirement that telecommunications companies file price lists. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by a notice to all telecommunications companies, to the commission's list of persons interested in telecommunications, rule makings, and to the commission's lists of regulatory attorneys. The commission posted the relevant rule-making information on its internet web site at <http://www.wutc.wa.gov/060676>.

9 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on July 25, 2006, at WSR 06-16-033. The commission scheduled this matter for oral comment and adoption under the notice at WSR 06-16-033 at 1:30 p.m., Wednesday, September 13, 2006, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

10 WRITTEN COMMENTS: The commission received written comments from AT&T Communications of the Pacific Northwest, Inc., TCG Seattle, TCG Oregon, Integra Telecom of Washington, Inc., and XO Communications Services, Inc. (collectively "Joint CLECs"), United Telephone Company of the Northwest d/b/a Embarq (Embarq), Verizon Northwest Inc. (Verizon), and Qwest Corporation (Qwest). Summaries of written comments and commission responses are presented below.

11 SUPPLEMENTAL NOTICE OF PROPOSED RULE MAKING: The commission filed a supplemental notice of proposed rule making (supplemental CR-102) on October 13, 2006, at WSR 06-21-050. The commission scheduled this matter for oral comment and adoption under the notice at WSR 06-21-050 at 1:30 p.m., Wednesday, December 13, 2006, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission. On December 15, 2006, the commission issued a notice to allow additional time for the office of public counsel of the office of the attorney general of Washington (public counsel) to submit additional comments, and for replies by other parties.

12 WRITTEN COMMENTS: The commission received written comments from Embarq, Public Counsel, Verizon, and Qwest. Summaries of written comments and commission responses are presented below.

13 RULE-MAKING HEARING: The commission considered the proposed rules for adoption at a rule-making hearing on December 13, 2006, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The commission heard oral comments from Judith Krebs, assistant attorney general, for public counsel.

14 SUGGESTIONS FOR CHANGE THAT ARE REJECTED OR ACCEPTED: Stakeholders submitting written and oral comments suggested changes to the proposed rules. The suggested changes and the commission's reason for rejecting or accepting the suggested changes are as follows:

15 Embarq opposed proposed WAC 480-120-266 (1)(b), which states "[t]he commission will, when appropriate, investigate or complain against a rate, term or condition provided pursuant to competitive classification." Embarq also opposed WAC 480-120-266 (1)(c), which indicates how the commission will treat ambiguity in complaints. The proposed language at issue is as follows: "If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the favor of the customer." Embarq commented that the term "ambiguous" is itself ambiguous, and that the presumption that any ambiguity should be construed in favor of the complainant creates a different standard from the statute.

16 Qwest and Verizon also found the language in both subsections (1)(b) and (1)(c) to be problematic. Alternatively, Embarq suggested substituting the wording from RCW 80.36.330(4), "The commission may investigate prices for competitive telecommunications services upon complaint. In any complaint proceeding initiated by the commission, the telecommunications company providing the service shall bear the burden of proving that the prices charged cover cost, and are fair, just, and reasonable."

17 We note that the language in proposed WAC 480-120-266 (1)(b) is almost identical to the second sentence in WAC 480-80-202 (1)(a), "[t]he commission will, when appropriate, investigate a price list or complain against a price list." Because we are deleting reference to the price list filing requirement in this rule making, we are repealing WAC 480-80-202 in its entirety. The commission finds it appropri-

ate, nonetheless, to retain authority in our rules to investigate or complain against a rate, term, or condition provided pursuant to competitive classification, notwithstanding the fact that the price list filing requirement no longer exists. By retaining this authority in rules, the commission makes its intentions, practices, and procedures known to all affected telecommunications companies.

18 With regard to the companies' concerns about WAC 480-120-266 (1)(c), we agree that the rule should be consistent with the statutory standard. While substituting the language from the statute as proposed would indeed be expeditious treatment of the commenting companies' interests, we believe that it is nevertheless appropriate to indicate clearly how the commission will in the future address complaints about ambiguities. In conclusion, we adopt the following language in proposed WAC 480-120-266 (1)(c) as consistent with statutory standards:

If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the favor of the customer unless the rate, term or condition was not proposed by the company.

19 All parties except public counsel expressed varying degrees of opposition to our proposal to include in WAC 480-120-266 a requirement to post on an internet web site information about intrastate services offered pursuant to competitive classification. Public counsel supported this requirement. Because we find RCW 80.36.100(5) eliminates the requirement to publish and keep schedules of rates, tolls, rentals, and charges for messages, conversations and services provided pursuant to competitive classification, we also find that the commission does not have the authority to require that such rates be posted on an internet web site.

20 Verizon argued that the commission should adopt rules providing guidelines governing the transition process of eliminating price lists as required by RCW 80.36.333 and 80.36.338. We decline to adopt such rules. The statutes are clear and the transition process is nearly over. If we were to adopt rules, they would merely reiterate the statute, and would need to be repealed almost as soon as they went into effect since the transition process is nearly over and the rules would no longer apply.

21 Verizon also argued that the revised rules should consistently reference the term "competitive contracts" as a replacement for the term "price lists." We have considered Verizon's proposal and find that it would be unduly restrictive because the proposal presumes that all services rendered pursuant to competitive classification after elimination of the price list filing requirement will necessarily be offered via competitive contracts. To preserve maximum competitive flexibility, we choose instead to delete reference to "price lists" in our rules and to use the phrase, "information about intrastate telecommunications service provided pursuant to competitive classification," and other variations of this language.

22 Various other relatively minor grammatical edits were recommended and either adopted or rejected.

23 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules as proposed in the supplemental CR-102 at WSR 06-21-050 with the changes described below.

24 **CHANGES FROM PROPOSAL:** The commission adopts the proposal with the following changes from the text noticed at WSR 06-21-050.

We recognize that the language governing ambiguous offers proposed in WAC 480-120-266 (1)(c) could be interpreted as different from the prevailing law of contracts that a term will be proposed against the party drafting the term. Therefore, we amend the proposed rule to provide that contract language will be construed against the company unless the company did not propose the term.

We revise proposed WAC 480-120-266 to eliminate the internet web posting requirement, for the reasons set out in the discussion above.

We reject Verizon's proposal to adopt rules governing the interim process of eliminating price lists as set forth under RCW 80.36.333 and 80.36.338 for the reasons set out above.

We also reject Verizon's proposal to use the term "competitive contracts" in lieu of "price lists" for the reasons set out above.

We adopt various grammatical edits.

25 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that WAC 480-80-010, 480-80-015, 480-80-030, 480-80-031, 480-120-011, 480-120-021, 480-120-026, 480-120-028, 480-120-061, 480-120-102, 480-120-103, 480-120-104, 480-120-122, 480-120-161, 480-120-171, 480-120-172, 480-120-255, 480-120-263, 480-120-264, 480-120-352, 480-120-436, 480-120-450, 480-120-540, 480-120-560, 480-121-011, 480-121-018 and 480-121-020 should be amended, WAC 480-80-201, 480-80-202, 480-80-203, 480-80-204, 480-80-205, 480-80-206, 480-80-241, 480-80-242 and 480-120-196 should be repealed, and WAC 480-120-266 should be adopted to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 27, Repealed 9.

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

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

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

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

ORDER

THE COMMISSION ORDERS:

26 The commission amends WAC 480-80-010, 480-80-015, 480-80-030, 480-80-031, 480-120-011, 480-120-021, 480-120-026, 480-120-028, 480-120-061, 480-120-102, 480-120-103, 480-120-104, 480-120-122, 480-120-161, 480-120-171, 480-120-172, 480-120-255, 480-120-263, 480-120-264, 480-120-352, 480-120-436, 480-120-450, 480-120-540, 480-120-560, 480-121-011, 480-121-018 and 480-121-020; and repeals WAC 480-80-201, 480-80-202, 480-80-203, 480-80-204, 480-80-205, 480-80-206, 480-80-241, 480-80-242 and 480-120-196; and adopts WAC 480-120-266 to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after filing with the code reviser pursuant to RCW 34.05.380(2).

27 This order and the rules set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, March 26, 2007.

Washington Utilities and Transportation Commission
Mark H. Sidran, Chairman
Patrick J. Oshie, Commissioner
Philip B. Jones, Commissioner

Chapter 480-80 WAC

UTILITIES GENERAL—TARIFFS(~~(, PRICE LISTS,)~~)
AND CONTRACTS

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

WAC 480-80-010 Application of rules. (1) The rules in this chapter apply to any public service company that is subject to the jurisdiction of the commission as to rates and services under the provisions of Title 80 RCW.

(2) The tariffs(~~(, price lists,)~~) and contracts filed by public service companies must conform with these rules. If the commission accepts a tariff(~~(, price list,)~~) or contract that conflicts with these rules, the acceptance does not constitute a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-80-015 (Exemptions from rules in chapter 480-80 WAC). Tariffs(~~(, price lists,)~~) or contracts that conflict with these rules without approval are superseded by these rules.

(3) Any affected person may ask the commission to review the interpretation of these rules by a public service company or customer by posing an informal complaint under WAC 480-07-910 (Informal complaints), or by filing a formal complaint under WAC 480-07-370 (Pleadings—General).

(4) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

(5) Any tariff(~~(, price list,)~~) or contract on file and in effect or pending on the effective date of these rules is not required to be refiled to comply with these rules.

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

WAC 480-80-015 Exemptions from rules in chapter 480-80 WAC. (1) The commission may grant an exemption from the provisions of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, giving a full explanation of the reason for requesting the exemption.

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

(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardship imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.

(5) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-07 WAC.

~~((6) Competitive telecommunications companies previously granted exemptions from chapter 480-80 WAC Utilities general—Tariffs, price lists, and contracts, are not exempt from Part I and Part III of this chapter. Exemptions from the provisions of chapter 480-80 WAC include only the provisions in effect at the time the exemption was granted. This subsection confirms that there is no change in exemptions previously granted to telecommunications companies that have been classified as competitive as a result of:~~

~~(a) Moving rules between chapters 480-80 and 480-120 WAC; and~~

~~(b) Renumbering sections within chapters 480-80 and 480-120 WAC.)~~

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-030 Definitions. The definitions in this section apply throughout the chapter unless the context clearly requires otherwise:

"Advice number" means a number assigned by the applicant to a tariff filing or contract filing for internal tracking purposes.

"Banded rate" means a rate that has a minimum and maximum rate.

"Commission" means the Washington utilities and transportation commission.

"Competitive telecommunications company" means a telecommunications company that has been classified as competitive by the commission pursuant to RCW 80.36.310.

"**Fax**" means the transmittal of electronic signals over telephone lines for conversion into written text.

~~("Price list" means a telecommunications company's standard offer to the general public or to other telecommunications companies of one or more intrastate telecommunications services that the commission has determined to be subject to effective competition.)~~

"**Public service company**" means every gas company, electric company, telecommunications company, water company, or irrigation plant that is subject to the jurisdiction of the commission as to rates and service.

"**RCW**" means the Revised Code of Washington.

"**Tariff**" is a document that sets forth terms and conditions of regulated service, including rates, charges, tolls, rentals, rules, and equipment and facilities, and the manner in which rates and charges are assessed for regulated services provided to customers, and rules and conditions associated with offering service.

"**Unified Business Identifier (UBI) number**" means the standard nine-digit sequential number issued by Washington state and used by all state agencies to uniquely identify a business entity. The department of licensing, department of revenue, and secretary of state's office are authorized to issue UBI numbers.

"**Utility**" means every public service company that has not been classified as competitive by the commission.

"**WAC**" means the Washington Administrative Code.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-031 Delivery of tariff(~~(-price list,)~~) and contract filings. (1) The commission records center will accept a tariff(~~(-price list,)~~) or contract filing delivered in person, by mail, fax, or ~~((when procedures are in place))~~ electronic means. The commission records center will stamp a filing received on Saturdays, Sundays, and state holidays, or after 5:00 p.m., Pacific time, as received on the next business day.

(2) In person or by mail.

(a) In order to be deemed received on a given day, the commission records center must receive an original and two copies of the filing(s) and a transmittal letter by 5:00 p.m., Pacific time.

(b) A filing delivered by mail must be free from all charges for postage. The commission records center will return any postage-due filing to the sender.

(3) Fax filing.

(a) The commission records center must receive an original and two copies of the filing the following business day.

(b) The commission will use the date and time the fax filing is received and printed at the commission records center as the official file date.

(c) The commission records center must receive a faxed filing in its entirety by 5:00 p.m., Pacific time, Monday through Friday, except on state holidays, to be considered received on that business day.

(4) Electronic filing.

(a) An electronic filing must conform to commission procedures for electronic filing.

(b) After accepting an electronic filing, the commission records center will return an electronic mail message noting the receipt date.

~~**(III. PRICE LISTS AND CONTRACTS: COMPETITIVE COMPANIES AND SERVICES)**~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-80-201	Use of price lists.
WAC 480-80-202	Interpretation and application of price lists.
WAC 480-80-203	Transmittal letter.
WAC 480-80-204	Price lists format and content.
WAC 480-80-205	Effective date of price list filings.
WAC 480-80-206	Price list availability to customers.
WAC 480-80-241	Filing contracts for services classified as competitive.
WAC 480-80-242	Using contracts for services classified as competitive.

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

WAC 480-120-011 Application of rules. (1) The rules in this chapter apply to any company that is subject to the jurisdiction of the commission as to rates and services under the provisions of RCW 80.01.040 and chapters 80.04 and 80.36 RCW.

(2) ~~((The))~~ Tariffs ~~((and price lists))~~ filed by companies must conform to these rules. If the commission accepts a tariff ~~((or price list))~~ that conflicts with these rules, the acceptance ~~((does))~~ is not ~~((constitute))~~ a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-120-015 (Exemptions from rules in chapter 480-120 WAC). Tariffs ~~((or price lists))~~ that conflict with these rules without approval are superseded by these rules.

(3) Any affected person may ask the commission to review the interpretation of these rules by a company or customer by posing an informal complaint under WAC 480-07-910 (Informal complaints), or by filing a formal complaint under WAC 480-07-370 (Pleading—General).

(4) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-021 Definitions. The definitions in this section apply throughout the chapter except where there is an alternative definition in a specific section, or where the context clearly requires otherwise.

"Access charge" means a rate charged by a local exchange company to an interexchange company for the origination, transport, or termination of a call to or from a customer of the local exchange company. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

"Access line" means a circuit providing exchange service between a customer's standard network interface and a serving switching center.

"Affiliate" means an entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity.

"Ancillary services" means all local service features excluding basic service.

"Applicant" means any person applying to a telecommunications company for new service or reconnection of discontinued service.

"Average busy hour" means a time-consistent hour of the day during which a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

"Basic service" means service that includes the following:

- Single-party service;
- Voice grade access to the public switched network;
- Support for local use;
- Dual tone multifrequency signaling (touch-tone);
- Access to emergency services (E911);
- Access to operator services;
- Access to interexchange services;
- Access to directory assistance; and
- Toll limitation services.

"Business" means a for profit or not-for-profit organization, including, but not limited to, corporations, partnerships, sole proprietorships, limited liability companies, government agencies, and other entities or associations.

"Business days" means days of the week excluding Saturdays, Sundays, and official state holidays.

"Business office" means an office or service center provided and maintained by a company.

"Business service" means service other than residential service.

"Busy season" means an annual, recurring, and reasonably predictable three-month period of the year when a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

"Call aggregator" means any corporation, company, partnership, or person, who, in the ordinary course of its operations, makes telephones available to the public or to users of its premises for telephone calls using a provider of operator services, including, but not limited to, hotels,

motels, hospitals, campuses, and pay phones (see also pay phone service providers).

"Category of service" means local, data services such as digital subscriber line service, interexchange, or CMRS. Information about a customer's intraLATA and interLATA primary interexchange carrier freeze status is part of the local category.

"Central office" means a company facility that houses the switching and trunking equipment serving a defined area.

"Centrex" means a telecommunications service providing a customer with direct inward dialing to telephone extensions and direct outward dialing from them.

"Class A company" means a local exchange company with two percent or more of the access lines within the state of Washington. The method of determining whether a company is a Class A company is specified in WAC 480-120-034 (Classification of local exchange companies as Class A or Class B).

"Class B company" means a local exchange company with less than two percent of the access lines within the state of Washington. The method of determining whether a company is a Class B company is specified in WAC 480-120-034 (Classification of local exchange companies as Class A or Class B).

"Commercial mobile radio service (CMRS)" means any mobile (wireless) telecommunications service that is provided for profit that makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public.

"Commission (agency)" in a context meaning a state agency, means the Washington utilities and transportation commission.

"Company" means any telecommunications company as defined in RCW 80.04.010.

"Competitively classified company" means a company that is classified as competitive by the commission pursuant to RCW 80.36.320.

"Customer" means a person to whom the company is currently providing service.

"Customer premises equipment (CPE)" is equipment located on the customer side of the SNI (other than a company) and used to originate, route, or terminate telecommunications.

"Discontinue; discontinuation; discontinued" means the termination or any restriction of service to a customer.

"Drop facilities" means company-supplied wire and equipment placed between a premises and the company distribution plant at the applicant's property line.

"Due date" means the date an action is required to be completed by rule or, when permitted, the date chosen by a company and provided to a customer as the date to complete an action.

"Emergency response facility" means fire stations, hospitals, police stations, and state and municipal government emergency operations centers.

"Exchange" means a geographic area established by a company for telecommunications service within that area.

"Extended area service (EAS)" means telephone service extending beyond a customer's exchange, for which the customer may pay an additional flat-rate amount per month.

"Facility or facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by a telecommunications company to facilitate the provision of telecommunications service.

"Force majeure" means natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; embargoes; epidemics; terrorist acts; riots; insurrections; explosions; and nuclear accidents.

"Interexchange" means telephone calls, traffic, facilities or other items that originate in one exchange and terminate in another.

"Interexchange company" means a company, or division thereof, that provides long distance (toll) service.

"Interoffice facilities" means facilities connecting two or more telephone switching centers.

"InterLATA" is a term used to describe services, revenues, functions, etc., that relate to telecommunications originating in one LATA and terminating outside of the originating LATA.

"IntraLATA" is a term used to describe services, revenues, functions, etc., that relate to telecommunications that originate and terminate within the same LATA.

"Local access and transport area (LATA)" means a local access transport area as defined by the commission in conformance with applicable federal law.

"Local calling area" means one or more rate centers within which a customer can place calls without incurring long-distance (toll) charges.

"Local exchange company (LEC)" means a company providing local exchange telecommunications service.

"Major outages" means a service failure lasting for thirty or more minutes that causes the disruption of local exchange or toll services to more than one thousand customers; total loss of service to a public safety answering point or emergency response agency; intercompany trunks or toll trunks not meeting service requirements for four hours or more and affecting service; or an intermodal link blockage (no dial tone) in excess of five percent for more than one hour in any switch or remote switch.

"Missed commitment" means orders for exchange access lines for which the company does not provide service by the due date.

"Order date" means the date when an applicant requests service unless a company identifies specific actions a customer must first take in order to be in compliance with tariffs(~~(, price lists,)~~) or commission rules. Except as provided in WAC 480-120-061 (Refusing service) and 480-120-104 (Information to consumers), when specific actions are required of the applicant, the order date becomes the date the actions are completed by the applicant if the company has not already installed or activated service.

When an applicant requests service that requires customer-ordered special equipment, for purposes of calculating compliance with the one hundred eighty-day requirement of

WAC 480-120-112 (Company performance for orders for nonbasic service) the order date is the application date unless the applicant fails to provide the support structure or perform other requirements of the tariff (~~(or price list)~~). In the event the applicant fails to provide the support structure or perform the other requirements of the tariff (~~(or price list)~~), a new order date is established as the date when the applicant does provide the support structure or perform the other requirements of the tariff (~~(or price list)~~).

"Pay phone" or "pay telephone" means any telephone made available to the public on a fee-per-call basis independent of any other commercial transaction. A pay phone or pay telephone includes telephones that are coin-operated or are activated by calling collect or using a calling card.

"Pay phone services" means provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls.

"Pay phone service provider (PSP)" means any corporation, company, partnership, or person who owns or operates and makes pay phones available to the public.

"Payment agency" means a physical location established by a local exchange company, either on its own premises or through a subcontractor, for the purpose of receiving cash and urgent payments from customers.

"Person" means an individual, or an organization such as a firm, partnership, corporation, municipal corporation, agency, association or other entity.

"Prior obligation" means an amount owed to a local exchange company or an interexchange company for regulated services at the time the company physically toll-restricts, interrupts, or discontinues service for nonpayment.

"Proprietary" means owned by a particular person.

"Provision" means supplying telecommunications service to a customer.

"Public access line (PAL)" means an access line equipped with features to detect coins, permit the use of calling cards, and such other features as may be used to provision a pay phone.

"Public safety answering point (PSAP)" means an answering location for enhanced 911 (E911) calls originating in a given area. PSAPs are designated as primary or secondary. Primary PSAPs receive E911 calls directly from the public; secondary PSAPs receive E911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

"Residential service" means basic service to a household.

"Restricted basic service" means either the ability to receive incoming calls, make outgoing calls, or both through voice grade access to the public switched network, including E911 access, but not including other services that are a part of basic service.

"Results of operations" means a fiscal year financial statement concerning regulated operations that include revenues, expenses, taxes, net operating income, and rate base. The rate of return is also included as part of the results of operations. The rate of return is the percentage of net operating income to the rate base.

"**Service interruption**" means a loss of or impairment of service that is not due to, and is not, a major outage.

"**Service provider**" means any business that offers a product or service to a customer, the charge for which appears on the customer's telephone bill.

"**Special circuit**" means an access line specially conditioned to give it characteristics suitable for handling special or unique services.

"**Standard network interface (SNI)**" means the protector that generally marks the point of interconnection between company communications facilities and customer's terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface or demarcation point is located on the customer's side of the company's protector, or the equivalent thereof in cases where a protector is not employed.

"**Station**" means a telephone instrument installed for a customer to use for toll and exchange service.

"**Subscriber list information (SLI)**" means any information:

(a) Identifying the listed names of subscribers of a company and those subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned when service is established), or any combination of listed names, numbers, addresses, or classifications; and

(b) That the company or an affiliate has published, caused to be published, or accepted for publication in any directory format.

"**Support structure**" means the trench, pole, or conduit used to provide a path for placement of drop facilities.

"**Telecommunications service**" means the offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used.

"**Telemarketing**" means contacting a person by telephone in an attempt to sell one or more products or services.

"**Toll restriction**" or "**toll restricted**" means a service that prevents the use of a local access line to initiate a long distance call using a presubscribed interexchange company.

"**Traffic**" means telecommunications activity on a telecommunications network, normally used in connection with measurements of capacity of various parts of the network.

"**Trouble report**" means a report of service affecting network problems reported by customers, and does not include problems on the customer's side of the SNI.

"**Trunk**" means, in a telecommunications network, a path connecting two switching systems used to establish end-to-end connection. In some circumstances, both of its terminations may be in the same switching system.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-480, filed 7/11/01, effective 8/11/01)

WAC 480-120-026 Tariffs (~~and price lists~~). Companies must file tariffs (~~and price lists~~) in accordance with chapter 480-80 WAC, Utilities general—Tariffs(~~and price lists~~), and contracts.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-480, filed 7/11/01, effective 8/11/01)

WAC 480-120-028 Registration. Companies must file registration applications as required by RCW 80.36.350 and in accordance with chapter 480-121 WAC, Registration, competitive classification (~~and price lists~~) of telecommunications companies.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-061 Refusing service. (1) A company may refuse to connect with, or provide service to, an applicant under the following conditions:

(a) When service will adversely affect the service to existing customers.

(b) When the installation is considered hazardous.

(c) When the applicant has not complied with commission rules, company tariff (~~or price list~~), or rates, terms and conditions pursuant to competitive classification, and state, county, or municipal codes concerning the provision of telecommunications service such as building and electrical codes.

(d) When the company is unable to substantiate the identity of the individual requesting service.

(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identification. The list must include a current driver's license or other picture identification.

(ii) Company business offices and payment agencies, required under WAC 480-120-132 and 480-120-162, must provide a means for applicants to provide identification at no charge to the applicant.

(e) When the applicant has previously received service from the company by providing false information, including false statements of credit references or employment, false statement of premises address, or use of an alias or false name with intent to deceive, until the applicant corrects the false information to the satisfaction of the company.

(f) When the applicant owes an overdue, unpaid prior obligation to the company for the same class of service, until the obligation is paid or satisfactory arrangements are made.

(g) When the applicant requests service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address and the company determines, based on objective evidence, that the applicant has cooperated with the prior customer with the intent to avoid payment. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has permanently vacated the address.

(h) When all necessary rights of way, easements, and permits have not been secured. The company is responsible for securing all necessary public rights of way, easements, and permits, including rights of way on every highway as defined in RCW 36.75.010(11) or created under RCW 36.75.070 or 36.75.080. The applicant is responsible for

securing all necessary rights of way or easements on private property, including private roads or driveways as defined in RCW 36.75.010(10). A private road or driveway is one that has been ascertained by the company not to be public.

(2) A company may not withhold or refuse to release a telephone number to a customer who is transferring service to another telecommunications company within the same rate center where local number portability has been implemented.

(3) A telecommunications company must deny service to a nonregistered telecommunications company that intends to use the service requested to provide telecommunications for hire, sale, or resale to the general public within the state of Washington. Any telecommunications company requesting service from another telecommunications company must state in writing whether the service is intended to be used for intrastate telecommunications for hire, sale, or resale to the general public. If the service is intended for hire, sale, or resale on an intrastate basis, the company must certify in writing, in the same manner as required by RCW 9A.72.085, that it is properly registered with the commission to provide the service.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-102 Service offered. (1) Classes of service. The classes of service are business and residential. Each local exchange company (LEC) must file with the commission, as part of its tariff (~~(or price list)~~), a description of the classes and types of service available to customers in each class. LECs must record for each access line whether local exchange service is residential or business class.

(2) Types of service. LECs must offer, at a minimum, flat-rate local exchange service. In addition, companies may offer service alternatives, such as measured service.

(3) Grade of service. Local exchange service offered by companies must be only one-party service.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-103 Application for service. (1) When contacted by an applicant, or when a company contacts a person, a company must:

(a) Accept and process applications when an applicant for service for a particular location has met all tariff (~~(or price list)~~) requirements and applicable commission rules;

(b) Establish the due date as the date requested by the applicant but is not required to establish a due date that is fewer than seven business days after the order date. If the company establishes a due date other than the date requested by the applicant, it must inform the applicant of the specific date when service will be provided or state that an estimated due date will be provided within seven business days as required by subsection (2) of this section; and

(c) Maintain a record in writing, or in electronic format, of each application for service, including requests for a change of service.

(2) If the company does not provide the applicant with a due date for installation or activation at the time of application as required in subsection (1)(b) of this section, the company must state the reason for the delay. Within seven business days of the date of the application, the company must provide the applicant with an estimated due date for installation or activation. The standards imposed by WAC 480-120-105 and 480-120-112 are not altered by this subsection.

(3) When the company informs the customer that installation of new service orders requires on-premises access by the company, the company must offer the customer an opportunity for an installation appointment that falls within a four-hour period.

(4) When the application for service requires a service extension as defined in WAC 480-120-071, the requirement of subsection (1)(b) of this section does not apply and, for the purpose of determining when an extension must be completed, the order date is the application date or six weeks prior to the date the customer makes the required initial payment, whichever is later.

When a service extension is required, the company must inform the customer within six weeks of a request for service that it will construct the extension and also request payment from the customer according to WAC 480-120-071, or inform the customer in writing that it will request an exemption from the commission pursuant to WAC 480-120-071(7).

In the event a company informs the customer it will request an exemption, the company must submit the request to the commission within four weeks of informing the customer of its decision. A copy of the exemption request must be mailed to the customer not later than the date the request is filed.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-104 Information to consumers. (1) Except for services provided under written contract pursuant to (~~(WAC 480-80-241 (Filing contracts for services classified as competitive),)~~) competitive classification, each company must provide an applicant for initial service with a confirming notice or welcome letter, either in writing or with permission of the customer, electronically. The confirming notice or welcome letter must be provided to the applicant or customer no later than fifteen days after installation of service and must provide, at a minimum:

(a) Contact information for the appropriate business office, including a toll-free telephone number, a TTY number, mailing address, repair number, electronic address if applicable, and business office hours, that the customer can contact if they have questions;

(b) Confirmation of the services being provided to the customer by the company, and the rate for each service. If the service is provided under a banded rate schedule, the current rate, including the minimum and maximum at which the customer's rate may be shifted; and

(c) If the application is for local exchange service, the LEC must either provide information required in WAC 480-120-251 (6)(a) through (f) or must inform the customer that

additional information pertaining to local exchange service may be found in the consumer information guide of the local telephone directory as required in WAC 480-120-251.

(2) Except for services provided under written contract pursuant to ~~((WAC 480-80-241 (Filing contracts for services classified as competitive.))~~ competitive classification, each company must provide each customer a confirming notice, either in writing or, with permission of the customer, electronically, within fifteen days of initiating a material change in service which results in the addition of a service, a change from one rate schedule to another, or a change in terms or conditions of an existing service. The confirming notice must provide at a minimum, the following information in clear and conspicuous language:

(a) Contact information for the appropriate business office, including a toll-free telephone number, a TTY number, and business office hours, that customers can contact if they have questions; and

(b) The changes in the service(s), including, if applicable, the rate for each service.

(3) When a LEC is acting as an executing carrier under WAC 480-120-147, it must make the following information available upon request:

(a) The name of the intraLATA and interLATA interexchange company to which the customer's account is currently subscribed; and

(b) A minimum of six months' account history, when available, including the date of the changes and the name of the interexchange company.

(4) When an applicant or customer contacts the LEC to select or change an interexchange company, the LEC must notify the carrier of the customer's selection or recommend that the customer contact the chosen interexchange company to confirm that an account has been or is being established by the interexchange carrier for the applicant.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-122 Establishing credit—Residential services. This section applies only to the provision of residential services.

(1) For a local exchange company (LEC) that offers basic service as part of any bundled package of services, the requirements of this subsection apply only to its lowest-priced, flat-rated residential basic service offering. The LEC may require an applicant or customer of residential basic service to pay a local service deposit only if:

(a) The applicant or customer has received two or more delinquency notices for basic service during the last twelve month period with that company or another company;

(b) The applicant or customer has had basic service discontinued by any telecommunications company;

(c) The applicant or customer has an unpaid, overdue basic service balance owing to any telecommunications company;

(d) The applicant's or customer's service is being restored following a discontinuation for nonpayment or

acquiring service through deceptive means under WAC 480-120-172(1); or

(e) The applicant or customer has been disconnected for taking service under deceptive means as described in WAC 480-120-172(1).

(2) A LEC may, if provided for in its tariff or ~~((price list))~~ rates, terms and conditions of services provided pursuant to competitive classification, require an applicant or customer of ancillary services to demonstrate satisfactory credit by reasonable means, pay a deposit, or make advanced payments consistent with subsections (4) and (5) of this section.

The company must inform applicants that local service cannot be withheld pending payment of a deposit or advanced payments for ancillary services.

(3) An interexchange company may, if provided for in its tariff or ~~((price list))~~ rates, terms and conditions of services provided pursuant to competitive classification, require an applicant or customer of interexchange services to demonstrate satisfactory credit by reasonable means or pay a deposit consistent with subsections (4) and (5) of this section.

The company must inform applicants that local service cannot be withheld pending payment of a deposit for interexchange services.

(4) When a company requests a deposit from an applicant or customer, the amount of the deposit may not exceed two months' customary use for an applicant or customer with previous verifiable service of the same class, or two months' estimated use for an applicant or customer without previous verifiable service. Customary use is calculated using charges for the previous three months' service.

(5) When an applicant or customer is required to pay a basic service deposit or an interexchange deposit, but is unable to pay the entire amount in advance of connection or continuation of service, the company must offer the applicant or customer the following options:

(a) Pay no more than fifty percent of the requested deposit amount before installation or continuation of service, with the remaining amount payable in equal amounts over the following two months; or

(b) Where technology permits, the applicant or customer must have the option of accepting toll-restricted basic service in lieu of payment of the deposit. A company must not charge for toll restriction when it is used as an alternative to a deposit.

A company must remove toll restriction unless the customer requests to retain it when the customer makes full payment of the requested interexchange company deposit or pays fifty percent of the requested deposit and enters into payment arrangements as provided for in (a) of this subsection.

(6) A company may require an applicant or customer to pay a deposit or make advanced payments equal to two months' charges for ancillary service before providing or continuing ancillary services.

(7) A company may require an applicant or customer to pay a deposit if it finds that service was provided initially without a deposit based on incorrect information and the customer otherwise would have been required to pay a deposit.

(a) When a company requests a new deposit or a larger deposit amount after service has been established, the company must provide a written notice to the customer listing the

reason(s) for the request, the date the deposit must be paid, and the actions the company may take if the deposit is not paid.

(b) Except for circumstances described in subsection (8) of this section, the deposit or additional deposit amount may not be due and payable before 5:00 p.m. of the sixth business day after notice of the deposit requirement is mailed or 5:00 p.m. of the second business day following delivery, if the notice is delivered in person to the customer.

(8)(a) A company authorized by the commission to collect deposits or advanced payments may require a customer to pay unbilled toll charges or pay a new or additional deposit amount when the customer's toll charges exceed thirty dollars, or exceed customary use over the previous six months by twenty dollars or by twenty percent, whichever is greater. A company may toll-restrict a customer's services if the customer is unable pay the toll or deposit amount.

(b) When a customer has exceeded the toll levels in (a) of this subsection, the company may require payment before the close of the next business day following delivery of either written or oral notice to the customer indicating that failure to pay one of the following may result in toll restriction of the customer's service. The company must give the customer the option to pay one of the following:

- (i) All outstanding toll charges specified in the notice; or
- (ii) All toll charges accrued to the time of payment providing the customer was notified the customer would be liable for all unbilled toll charges that accrued between the time of the notice and time of the payment; or
- (iii) Payment of a new or additional deposit in light of the customer's actual use based upon two months' customary use.

(c) When an applicant does not have a customary utilization amount from a previous service, the company may request that the applicant estimate the greatest monthly toll amount the applicant expects to use. If the company asks for an estimate, it must explain that if the customer's toll charges exceed the amounts in (a) of this subsection, the company may toll restrict or require a deposit as permitted in this subsection.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-161 Form of bills. (1) Bill frequency. Companies must offer customers, at a minimum, the opportunity to receive billings on a monthly interval, unless subsection (11) of this section applies.

(2) **Length of time for payment of a bill.** Bill due dates must reflect a date which at a minimum allows a customer fifteen days from the date of mailing for payment.

(a) Upon showing of good cause, a customer may request and the company must allow the customer to pay by a date that is not the normally designated payment date on their bill. Good cause may include, but not be limited to, adjustment of the billing cycle to parallel receipt of income.

(i) A company may not assess late payment fees for the period between the regularly scheduled due date and the customer-chosen due date so long as the customer makes payment in full by the customer-chosen due date.

(ii) A company may refuse to establish a preferred payment date that would extend the payment date beyond the next normally scheduled payment or due date.

(b) If a company is delayed in billing a customer, the company must offer arrangements upon customer request or upon indication that a payment arrangement is necessary, that are equal to the length of time the bill is delayed beyond the regularly scheduled billing interval (e.g., if the bill includes two months delayed charges, the customer must be allowed to pay the charges over two months).

Companies may not charge a customer late payment fees on the delayed charges during the extended payment period.

(3) **Form of bill.** With the consent of the customer, a company may provide regular billings in electronic form if the bill meets all the requirements of this rule. The company must maintain a record of the customer's request, and the customer may change from electronic to printed billing upon request.

(4) **Bill organization.** Telephone bills must be clearly organized, and must comply with the following requirements:

(a) Bills may only include charges for services that have been requested by the customer or other individuals authorized to request such services on behalf of the customer, and that have been provided by the company;

(b) The name of the service provider associated with each charge must be clearly and conspicuously identified on the telephone bill;

(c) Where charges for two or more companies appear on the same telephone bill, the charges must be separated by service provider;

(d) The telephone bill must clearly and conspicuously identify any change in service provider, including identification of charges from any new service provider; and

(e) The telephone bill must include the internet address (uniform resource locator) of the web site containing the service provider's tariff ~~((or price list, if the service provider is a telecommunications company required to publish its tariff or price list on a web site))~~ pursuant to WAC ~~((480-80-206(2) (Price list availability to customers) or WAC 480-120-193 (Posting of tariffs for public inspection and review)))~~ 480-120-193 (Posting of tariffs for public inspection and review). This requirement may be satisfied by including the address of a web site other than that of the telecommunications company itself, if the web site provides access to the tariff or ~~((price list))~~ information about competitively classified services that applies to the service being billed.

For purposes of this subsection, "new service provider" means a service provider that did not bill the customer for service during the service provider's last billing cycle. This definition includes only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill, unless the service is subsequently canceled.

For purposes of this subsection, "clearly and conspicuously" means notice that would be apparent to a reasonable customer.

(5) **Descriptions of billed charges.**

(a) The bill must include a brief, clear, nonmisleading, plain language description of each service for which a charge

is included. The bill must be sufficiently clear in presentation and specific enough in content so that the customer can determine that the billed charges accurately reflect the service actually requested and received, including individual toll calls and services charged on a per-occurrence basis.

(b) The bill must identify and set out separately, as a component of the charges for the specific service, any access or other charges imposed by order of or at the direction of the Federal Communications Commission (FCC).

(c) The bill must clearly delineate the amount or the percentage rate and basis of any tax assessed by a local jurisdiction.

(6) **Charges for which service can be discontinued.** Where a bill contains charges for basic service, in addition to other charges, the bill must distinguish between charges for which nonpayment will result in loss of basic service. The bill must include telephone numbers by which customers may inquire or dispute any charges on the bill. A company may list a toll-free number for a billing agent, clearinghouse, or other third party, provided such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve the customer's complaints on the company's behalf. Where the customer does not receive a paper copy of the telephone bill, but instead accesses that bill only by e-mail or internet, the company may comply with this requirement by providing on the bill an e-mail or web site address. Each company must make a business address available upon request from a customer.

(7) **Itemized statement.** A company must provide an itemized statement of all charges when requested by a customer, including, but not limited to:

- (a) Rates for individual services;
- (b) Calculations of time or distance charges for calls, and calculations of any credit or other account adjustment; and
- (c) When itemizing the charges of information providers, the name, address, telephone number, and toll-free number, if any, of the providers.

(8) **Methods of payment.**

(a) Companies must, at a minimum, allow the following methods of payment: Cash, certified funds (e.g., cashier check or money order), and personal checks.

(b) Upon written notice to a customer, companies may refuse to accept personal checks when that customer has tendered two or more nonsufficient-funds checks within the last twelve months.

(9) **Billing companies.** A company may bill regulated telecommunications charges only for companies properly registered to provide service within the state of Washington or for billing agents. The company must, in its contractual relationship with the billing agent, require the billing agent to certify that it will submit charges only on behalf of properly registered companies; and that it will, upon request of the company, provide a current list of all companies for which it bills, including the name and telephone number of each company. The company must provide a copy of this list to the commission for its review upon request.

(10) **Crediting customer payments.** Unless otherwise specified by the customer, payments that are less than the total bill balance must be credited first to basic service, with any remainder credited to any other charges on the bill.

For purposes of this subsection, basic service includes associated fees and surcharges such as FCC access charges. Basic service does not include ancillary services such as caller identification and custom calling features.

(11) **Exemptions from this rule.** Prepaid calling card services (PPCS) are exempt from subsections (1) through (10) of this section.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-171 Discontinuing service—Customer requested. (1) This section applies to residential, business, and resale services discontinued at the customer's request. The customer must notify the company of the date the customer wishes to discontinue service. If the customer moves from the service address and fails to request discontinuation of service, the customer must pay for service taken at the service address until the company can confirm that the customer has vacated the premises or a new party has taken responsibility for the service.

(2) A company must stop a customer's monthly recurring or minimum charges effective on the requested discontinuation date. The customer may be held responsible for use charges incurred after the requested discontinuation date when the company can prove that the calls were made or authorized by the customer of record. This section does not preclude a company from collecting minimum service commitment penalties when a customer disconnects service prior to fulfilling the tariff(, price list,) or contract commitment.

(3) The company must discontinue service as follows:

- (a) For services that do not require a field visit, the company must discontinue service not later than one business day from the date requested by the customer; and
- (b) For services that require a premises visit to complete the request, the company must disconnect service no later than two business days from the date requested by the customer.

(4) When a customer directs the local exchange company (LEC) to discontinue service, the LEC must either notify the customer's presubscribed interLATA and intraLATA toll carriers of the discontinuation or inform the customer that it is the customer's obligation to contact those carriers directly.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-172 Discontinuing service—Company initiated. (1) A company may discontinue service without notice or without further notice when after conducting a thorough investigation, it finds the customer has used deceptive means to initiate or continue service including, but not limited to:

- (a) Tampering with the company's property;
- (b) Using service through an illegal connection; or
- (c) Unlawfully using service or using service for unlawful purposes.

(2)(a) A company may discontinue service without notice or without further notice when after conducting a thorough investigation, it determines the customer has:

(i) Vacated the premises without informing the company;

(ii) Paid a delinquent balance in response to a delinquency notice as described in subsection (7) of this section with a check or electronic payment that is subsequently dishonored by the bank or other financial institution; or

(iii) Failed to keep payment arrangements agreed upon in response to a delinquency notice as described in subsection (7) of this section.

(b) The company must restore service once the customer has corrected the reason for discontinuance as described in subsection (2)(a) of this section.

(c) The company may require a deposit from a customer that it has disconnected due to the reasons described in subsection (2)(a) of this section.

(3) A company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if:

(a) The company determines the customer has violated a rule, statute, service agreement, filed tariff, or ((price list)) rates, terms and conditions of competitively classified services;

(b) The company determines the customer has used customer-owned equipment that adversely affects the company's service to its other customers;

(c) The company determines the customer has not paid regulated charges or has not paid a deposit as provided in the tariff or ((price list)) rates, terms and conditions of competitively classified services of the company or another company with which it has a billing and collection agreement, except for nonpayment of charges incurred from information delivery services as provided for in WAC 480-120-254 (Telephone solicitation) or disputed third party-billed charges;

(d) The company is unable to substantiate the identity of the individual requesting service:

(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identification. The list must include a current driver's license or other picture identification;

(ii) Company business offices and payment agencies, required under WAC 480-120-132 (Business offices) and 480-120-162 (Cash and urgent payments), must provide a means for applicants to provide identification at no charge to the applicant;

(e) The company determines the customer has received service from the company by providing false information, including false statements of credit references or employment, false statement of premises address, use of an alias or false name with intent to deceive, or rotation of service among roommates or persons living together for the purpose of avoiding the debts of one or more persons; or

(f) The company determines the customer is receiving service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address and there is evidence that the applicant lived at the address while

the overdue, unpaid prior obligation was incurred and helped incur the obligations. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has permanently vacated the address.

(4) Except as provided in subsections (1), (2), and (3) of this section, a company may discontinue:

(a) Basic service only for nonpayment of basic service charges;

(b) Ancillary services only for nonpayment of ancillary charges or if the company properly discontinues basic service;

(c) Interexchange access only for nonpayment of interexchange charges or if the company properly discontinues basic service:

(i) At its discretion, the company may permit access to toll-free numbers while a customer's interexchange access service is discontinued or restricted;

(ii) The company may not charge fees for toll restriction when it has discontinued or restricted the customer's interexchange access service under this section;

(d) A company must not shift a rate plan as a discontinuation method.

(5) When a company discontinues service to a customer, it must also discontinue billing for service as of the date of the discontinuation.

(6) Medical emergencies.

(a) When a local exchange company (LEC) has cause to discontinue residential basic service or has discontinued service, it must postpone total service discontinuation or reinstate toll-restricted basic service that permits both making and receiving calls and access to E911 for a grace period of five business days after receiving either oral or written notice of the existence of a medical emergency, as described in (b) of this subsection. The LEC must reinstate service during the same day if the customer contacts the LEC prior to the close of the business day and requests a same-day reconnection. Otherwise, the LEC must restore service by 12:00 p.m. the next business day. When service is reinstated, the LEC cannot require payment of a reconnection charge or deposit before reinstating service but may bill the charges at a later date.

(b) The LEC may require that the customer submit written certification from a qualified medical professional, within five business days, stating that the discontinuation of basic service or restricted basic service would endanger the physical health of a resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this subsection precludes a company from accepting other forms of certification, but the maximum the company can require is written certification. If the company requires written certification, it may require only:

(i) The address of the residence;

(ii) An explanation of how discontinuation of basic service or restricted basic service would endanger the physical health of the resident;

(iii) A statement of how long the condition is expected to last; and

(iv) The title, signature, and telephone number of the person certifying the condition.

(c) The medical certification is valid only for the length of time the medical professional certifies the resident's health would be endangered, but no longer than ninety days unless renewed.

(d) A medical emergency does not excuse a customer from paying delinquent and ongoing charges. The company may require that, within the five-day grace period, the customer pay a minimum of twenty-five percent of the delinquent basic service balance or ten dollars, whichever is greater, and enter into an agreement to pay the remaining delinquent basic service balance within ninety days, and agree to pay subsequent bills when due.

Nothing in this subsection precludes the company from agreeing to an alternate payment plan, but the company must not require the customer to pay more than this section prescribes and must send a notice to the customer confirming the payment arrangements within two business days.

(e) The company may discontinue basic service or restrict basic service without further notice if, within the five-day grace period, the customer fails to provide an acceptable medical certificate or pay the amount required under (d) of this subsection. The company may discontinue basic service or restrict basic service, without further notice, if the customer fails to abide by the terms of the payment agreement.

(f) The company must ensure that the records of medical emergencies are used or disclosed only for the purposes provided for in this section.

(7) **Discontinuation notice requirements.** The company must provide the customer notice before discontinuing service in accordance with (a) through (c) of this subsection, except as provided in subsection (1) of this section, and except as provided in WAC 480-120-122(8).

(a) Each company must provide a written discontinuation notice to the customer either by first class mail, personal delivery to the customer's service address, or electronically delivered when the company has the technical capability and the customer consents to this delivery method. A company must provide delivered notice by handing the notice to a person of apparent competence in the residence; to a person employed at the place of business of the customer if it is a business account; or attached to the primary door of the residential unit or business office where service is provided if no person is available to receive notice. The discontinuation notice must include, at a minimum:

(i) A discontinuation date that is not less than eight business days after the date the notice is mailed, transmitted electronically, or personally delivered;

(ii) The amount(s) owing for the service(s) that is subject to discontinuation or restriction;

(iii) A statement that clearly indicates the amount a customer must pay to maintain basic service or restricted basic service, regardless of the full amount owed by the customer;

(iv) Instructions on how to correct the problem to avoid the discontinuation;

(v) Information about any discontinuation or restoration charges that may be assessed;

(vi) Information about how a customer can avoid disconnection under the medical emergency rules described in subsection (6) of this section; and

(vii) The company's name, address, toll-free number, and TTY number where the customer may contact the company to discuss the pending discontinuation of service.

(b) If the company discovers that the information provided on the notice failed to meet the requirements of (a) of this subsection, or if the company discovers it provided incorrect information on the notice, the company must restore service and issue a second notice with accurate information as described in this section.

(c) If the company has not discontinued service within ten business days of the first day the discontinuation may be implemented, the discontinuation notice is void, unless the customer and the company have entered into a mutually acceptable payment agreement with payment dates that exceed the ten-day period. Upon a void notice, the company must provide a new discontinuation notice to the customer if the company intends to discontinue service at a later date.

(8) In addition to the notice required in subsection (7) of this section, a company must attempt to make personal contact with a customer prior to discontinuing service. Any of the following methods will satisfy the personal contact requirement:

(a) **Delivered notice.** A company must provide delivered notice handing the notice to a person of apparent competence in the residence; to a person employed at the place of business of the customer if it is a business account; or attached to the primary door of the residential unit or business office where service is provided if no person is available to receive notice. The notice must state a scheduled discontinuation date that is not earlier than 5:00 p.m. of the next business day after the date of delivery;

(b) **Electronically issued notice.** If the company has the technical capability to provide electronic notice and the customer has agreed to receive notice in electronic form, the notice sent by the company must state a scheduled discontinuation date that is not earlier than 5:00 p.m. of the second business day after the date of delivery;

(c) **Mailed notice.** The notice mailed by the company may not include a scheduled discontinuation date that is earlier than 5:00 p.m. of the third business day after the date of mailing. The date of mailing is not the first day of the notice period; or

(d) **Telephone notice.** The company must attempt at least two times to contact the customer during regular business hours. If the company is unable to reach the customer on the first attempt, the company must attempt to contact the customer using any business or message number provided by the customer as a contact number. The company must keep a log or record of the calls for a minimum of ninety calendar days showing the telephone number called, the time of the call, and details of the results of each attempted call. The disconnection must not take place before 5:00 p.m. of the next business day after the phone calls or attempts.

(e) A company need not attempt personal contact as provided for in (a) through (d) of this subsection when the company has had cause, in any two previous billing periods during a consecutive twelve-month period, to attempt such con-

tact and the company has notified the customer in writing that such contact will not be attempted in the future before effecting a discontinuation of services.

(9) Except in case of danger to life or property, companies may not discontinue service on days that it is not fully staffed to discuss discontinuation and reestablish service to the customer on the same or the following day.

(10) When the company has reasonable grounds to believe that service is to other than the party of record, the company must make reasonable efforts to inform the occupants at the service address of the impending discontinuation. Upon request of one or more service users, the company must allow a minimum period of five business days to permit the service user to arrange for continued service.

The company is not required to allow the additional five days when a thorough investigation indicates there is deceptive activity at the service address.

(11) LECs must provide notice of pending local service discontinuation to the secretary, Washington state department of social and health services, and to the customer, where it provides service to a facility with resident patients including, but not limited to, hospitals, medical clinics, or nursing homes. Upon request from the secretary or a designee, the company must allow a delay in discontinuation of no less than five business days from the date of notice so that the department may take whatever steps are necessary in its view to protect the interests of patients living within the facilities.

(12) **Remedy and appeals.** The company must not discontinue or restrict service while a customer is pursuing any remedy or appeal provided for by these rules, if the customer pays any amounts not in dispute when due and the customer corrects any conditions posing a danger to health, safety, or property. The company must inform the customer of these provisions when the customer is referred to a company's supervisor or the commission.

During a dispute a company may, upon authorization from commission staff, discontinue service when a customer's toll charges substantially exceed the amount of any deposit or customary use and it appears the customer may incur excessive, uncollectible toll charges while an appeal is being pursued. A customer whose service is subject to discontinuation may maintain service pending resolution of any dispute upon payment of outstanding toll charges subject to refund if the dispute is resolved in the customer's favor.

(13) **Payment at a payment agency.** Payment of any past-due amounts to a designated payment agency of the company constitutes payment to the company when the customer informs the company of the payment and the company verifies the payment.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-255 Information delivery services. (1) For purposes of this section:

"Information-delivery services" means telephone recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix.

"Information provider" means the persons or corporations that provide the information, prerecorded message, or interactive program for the information-delivery service.

"Interactive program" means a program that allows a caller, once connected to the information provider's announcement machine, to access additional information by using the caller's telephone.

(2) Local exchange companies (LECs) offering access to information-delivery services must provide each residential customer the opportunity to block access to all information delivery services offered by that company. Companies must fulfill an initial request for blocking free of charge. Companies may charge a ~~((tariffed or price-listed fee))~~ rate set forth in the tariff or in the rates, terms and conditions of competitively classified services for subsequent blocking requests (i.e., if a customer has unblocked his or her access).

(3) The LEC must inform residential customers of the blocking service through a single-topic bill insert and publication of a notice in a conspicuous location in the consumer information pages of the local white pages telephone directory. The LEC must include in the notice and bill insert the residential customers' rights under the law, the definition of "information delivery services" as defined in subsection (1) of this section, and a statement that these services often are called "900" numbers. The LEC must include notice that customers have the right under Washington law to request free blocking of access to information-delivery services on their residential telephone lines, that blocking will prevent access to information-delivery services from their residential telephone line, that customers may request free blocking of access to information-delivery services on their residential telephone lines by calling the LEC at a specified telephone number, that the Washington utilities and transportation commission is authorized under RCW 80.36.500 to enforce this law, and that customers may contact the commission for further information. The LEC must include the commission's address, toll-free telephone number, and web site:

Washington Utilities and Transportation Commission
Consumer Affairs Section
1300 South Evergreen Park Drive, SW
P.O. Box 47250
Olympia, WA 98504-7250
1-800-562-6150
www.wutc.wa.gov

(4) Any company that provides billing, customer service, or collection services for an information provider must require, as a part of its contract for that service, that the information provider include in any advertising or promotion a prominent statement of the cost to the customer of the information service.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-263 Pay phone service providers (PSPs). (1) A local exchange company (LEC) within the state of Washington must allow pay phone service providers (PSPs) to connect pay phones to its network, and a LEC must

file a tariff ~~((or price list))~~ with the commission to include the rates and conditions applicable to providing service to pay phones via its network. For services provided to pay phones pursuant to competitive classification, information about such services must be made available in accordance with WAC 480-120-266 (Information about telecommunications services provided pursuant to competitive classification).

(2) Registration and application of rules.

(a) PSPs operating a pay phone within the state of Washington must register by:

(i) Submitting a master business application to the master license service, department of licensing; and

(ii) Obtaining a unified business identifier (UBI) number. A PSP that already has a UBI number need not reapply.

(b) Except where pay phone services or PSPs are specifically referenced, the rules of general applicability to public service companies or telecommunications companies do not apply to pay phone services. This does not exempt PSPs from rules applicable to complaints and disputes (WAC 480-120-165), or remedies or sanctions for violations of rules applicable to PSP operations.

(3) **Access.** At no charge to the calling party, pay phones must provide access to:

(a) Dial tone;

(b) Emergency services by dialing 911 without the use of a coin or entering charge codes;

(c) Operator;

(d) Telecommunications relay service calls for the hearing-impaired;

(e) All available toll-free services; and

(f) All available interexchange companies, including the LEC.

(4) **Disclosure.** PSPs must post clearly and legibly, in an unobstructed location on or near the front of the pay phone:

(a) The rate for local calls, including any restrictions on the length of calls in thirty point or larger type print or a different and contrasting color;

(b) Notice that directory assistance charges may apply, and to ask the operator for rates;

(c) Notice that the pay phone does not make change, if applicable;

(d) The emergency number (E911);

(e) The name, address, phone number, and unified business identifier (UBI) number of the owner or operator;

(f) A toll-free number to obtain assistance if the pay phone malfunctions, and procedures for obtaining a refund;

(g) The name, address, and toll-free number of all pre-subscribed operator service providers (OSPs), as registered with the commission. This information must be updated within thirty days of a change in the OSP. Refer to WAC 480-120-262 for OSP definition and rules;

(h) Notice to callers that they can access other long distance companies;

(i) The phone number of the pay phone, including area code. When the pay phone is in an area that has had an area code change, the area code change must be reflected on the pay phone within thirty days of the area code conversion; and

(j) In contrasting colors, the commission compliance number for customer complaints, to include the following information:

"If you have a complaint about service from this pay phone and are unable to resolve it by calling the repair or refund number or operator, please call the commission at 1-888-333-WUTC (9882)."

(5) **Operation and functionality.** A PSP must order a separate public access line (PAL) for each pay phone installed. The commission may waive this requirement if a company demonstrates that technology accomplishes the same result as a one-to-one ratio by means other than through a PAL, that the service provided to customers is fully equivalent, and that all emergency calling requirements are met. This PAL must pass the appropriate screening codes to the connecting company to indicate that the call is originating from a pay phone. In addition:

(a) The pay phone, if coin operated, must return coins to the caller in the case of an incomplete call and must be capable of receiving nickels, dimes, and quarters.

(b) Pay phone keypads must include both numbers and letters.

(c) Where enhanced 911 is operational, the address displayed to the public safety answering point (PSAP) must be that of the phone instrument if different from the public access line demarcation point and the phone number must be that of the pay phone. To comply with this subsection, PSPs must provide an emergency response location (ERL) to the LEC supplying the PAL within two working days of establishing the location, or changed location, of the phone instrument. The ERL must provide sufficient information to aid emergency personnel in the rapid location of the phone instrument, e.g., building floor number, compass quadrant (e.g., northeast corner), and room number.

(d) Extension telephones may be connected to a PAL only for the purpose of monitoring emergency use. The pay phone must be clearly labeled to indicate that "911 calls are monitored locally." An extension phone must be activated only when 911 is dialed from the pay phone, and must be equipped with a "push to talk" switch or other mechanism to prevent inadvertent interruption of the caller's conversation with the PSAP.

(e) Cordless and tabletop pay phones may be connected to the telephone network only when the bill is presented to the user before leaving the premise where the bill was incurred, unless the customer requests that the call be alternatively billed.

(f) Pay phones may not restrict the number of digits or letters that can be dialed.

(g) Pay phones may provide credit-only service, or coin and credit service.

(h) Pay phones must provide two-way service, and no charge may be imposed by the PSP for incoming calls. Exceptions to two-way service are allowed under the following circumstances:

(i) Service provided to hospitals and libraries where a telephone ring might cause undue disturbance;

(ii) Service provided within a building on the premises of a private business establishment, at the discretion of the business owner. For purposes of this section, premises where people have access to public transportation such as airports, bus and train stations are not considered private business establishments; and

(iii) Service at locations where local governing jurisdictions or law enforcement find that incoming calls may be related to criminal or illicit activities and have provided proper notice under subsection (6) of this section. Each pay phone restricted to one-way service must be clearly marked on or near the front of the pay phone with information detailed in subsection (6) of this section.

(6) **Restrictions.** A PSP may only limit the operational capabilities of a pay phone when a local governing jurisdiction or other governmental agency submits a notice to the commission using prescribed forms a minimum of ten days prior to the restriction. Restrictions may include, but are not limited to, blocking incoming calls, limiting touch-tone capabilities, and coin restriction during certain hours. The notice must be signed by an agent of the local governing jurisdiction in which the pay phone is located who has authority to submit the request, and must state the jurisdiction's reasons for the restriction. A copy of the notice must also be served on the PSP no later than ten days prior to the restriction.

The requestor must post a notice prominently visible at the pay phone(s) ten days prior to the proposed restriction. The notice must explain what is proposed and how to file an objection with the governing agency.

Once the restriction is in place, the PSP must post on or near each restricted pay phone, in legible and prominent type, a description of each limitation in effect, the times when the restrictions will be in effect, and the name and toll-free number of the governmental agency recommending the restriction.

(7) **Telephone directories.** The provider of the PAL must furnish without charge one current telephone directory each year for each PAL. The PSP must ensure that a current directory is available at every pay phone.

(8) **Malfunctions and rule violations.** The PSP must correct, within five days, malfunctions of the pay phone or rule violations reported to the repair or refund number or the commission.

AMENDATORY SECTION (Amending Docket No. A-030832, General Order No. R-509, filed 10/29/03, effective 11/29/03)

WAC 480-120-264 Prepaid calling services. (1) For the purposes of this section, prepaid calling services (PPCS) means any transaction in which a customer pays for service prior to use and applies only to those services where the number of available minutes decreases as the customer uses the service. Prepaid calling services do not include flat-rated basic local service that is billed in advance of use.

(a) PPCS may require the use of an access number or authorization code.

(b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC 480-120-263 (Pay phone service providers (PSPs)).

(2) PPCS providers must provide customers a without-charge telephone number staffed by personnel capable of:

(a) Responding to technical problems or questions related to their service twenty-four hours a day, seven days a week;

(b) Responding to general account-related questions during regular business hours; and

(c) Providing the commission's toll-free number and address to dissatisfied customers as required by WAC 480-120-165 (Customer complaints).

(3) Billing requirements for PPCS.

(a) A PPCS provider may charge only for the actual time a circuit is open for conversation. The ~~((price list or))~~ tariff and presale document must define billing increments. The provider must not round up the length of conversation time for less than a full billing increment beyond that full increment.

(i) If a PPCS provider uses an increment based on a time measurement, the increment must not exceed one minute.

(ii) If a PPCS provider bills usage in "unit" measurements, it must clearly define units using both equivalent dollar amounts and time measurement. Unit billing increments cannot exceed the equivalent one minute rate.

(b) At the customer's request, a PPCS provider may add additional time to an existing account in exchange for an additional payment at a rate not to exceed those on file on tariff with the commission or at rates, terms and conditions pursuant to competitive classification. The PPCS provider must inform the customer of the new rates at the time of the recharge request.

(4) PPCS providers must maintain the following call-data for a minimum of twenty-four months:

(a) Dialing and signaling information that identifies the inbound access number called or the access identifier;

(b) The number of the originating phone when the information is passed to the PPCS provider;

(c) The date and time the call was originated;

(d) The duration or termination time of the call;

(e) The called number; and

(f) The personal identification number (PIN), or account number.

(5) Disclosure requirements - Prepaid calling services.

(a) A PPCS provider must disclose, prior to the sale, the following information:

(i) The PPCS provider's name as registered with the commission;

(ii) The "doing business as" name as registered with the commission, if applicable;

(iii) The maximum charge per billing increment. A PPCS provider charging varying rates for intrastate and interstate calls must ~~((provide)) disclose~~ all applicable rates ~~((The rates disclosed must be no more than those in its price list or tariff on file with the commission at the time of purchase))~~;

(iv) Charges for all services, including any applicable surcharges, fees, or taxes, and the method of application;

(v) Expiration date, if applicable. If a card expires after a set period of time from activation, the PPCS provider must specify the expiration date on the card. If an expiration date is not disclosed on the card it will be considered unexpired indefinitely; and

(vi) Recharge policy, if applicable. If a PPCS provider does not disclose the expiration date at the time service is recharged, the service will be considered unexpired indefinitely.

(b) A PPCS provider must disclose, at the time of purchase, the following information:

(i) The without-charge telephone number(s) a customer may use to resolve technical problems, service-related questions, and general account-related questions; and

(ii) Authorization code, if required, to access the service or, if applicable, the without-charge telephone number used to establish access capability.

(c) If the PPCS provider is not the entity that packages the services for sale to the public, it must require the company that does so, through a written agreement, to comply with the disclosure requirements of this section.

(6) Time of use disclosure requirements. The PPCS provider must:

(a) Announce at the beginning of each call the time remaining on the prepaid account or prepaid calling card; and

(b) Announce the time remaining at least one minute before the prepaid account balance is depleted.

(7) When a PPCS provider has failed to provide service at rates disclosed prior to the sale or quoted at the time an account is recharged, or the PPCS provider has failed to meet performance standards, it must provide refunds for any unused service or provide equivalent service credit when requested by a customer. Refunds or credits must equal the value remaining on the prepaid calling account. The customer may choose either the refund or equivalent service credit option.

(8) Performance standards for prepaid calling services. Each PPCS provider must ensure that:

(a) Customers can complete a minimum of ninety-eight percent of all call attempts to the called party's number. The PPCS provider will consider any busy signals or unanswered calls as completed calls.

(b) Customers can complete a minimum of ninety-eight percent of all call attempts to the PPCS provider. The PPCS provider will not consider any busy signals or unanswered calls as completed calls.

NEW SECTION

WAC 480-120-266 Information about telecommunications services provided pursuant to competitive classification. (1) Rates, terms and conditions for telecommunications services offered pursuant to competitive classification must conform to all applicable laws, rules, and orders.

(a) The commission does not review or approve rates, terms and conditions of services offered pursuant to competitive classification.

(b) The commission will, when appropriate, investigate or complain against a rate, term or condition provided pursuant to competitive classification.

(c) If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the favor of the customer unless the rate, term or condition was not proposed by the company.

(2) The rates, charges, and prices of services classified as competitive under RCW 80.36.330 must cover the cost of providing the service. Costs must be determined using a

long-run incremental cost analysis, including as part of the incremental cost, the price charged by the offering company to other telecommunications companies for any essential function used to provide the service, or any other commission-approved cost method.

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

WAC 480-120-352 Washington Exchange Carrier Association (WECA). (1) The Washington Exchange Carrier Association (WECA) may:

(a) File petitions with the commission;

(b) Publish and file tariffs with the commission; and

(c) Represent before the commission those members that so authorize. WECA's rules of procedure are on file with the commission under Docket No. UT-920373, and may be obtained by contacting the commission's records center.

(2) Subject to all the procedural requirements and protections associated with company filings before the commission, WECA must submit to the commission:

(a) All initial WECA tariffs; and

(b) All changes to the tariffs.

(3) A member of WECA may file directly with the commission:

(a) Tariffs(~~(-price lists,-)~~) and contracts;

(b) Revenue requirement computations;

(c) Revenue objectives;

(d) Universal service support cost calculations;

(e) Total service long run incremental cost studies;

(f) Competitive classification petition;

(g) Other reports; or

(h) Any other item it or the commission deems necessary.

(4) The commission has the authority to supervise the activities of WECA. However, such supervision will not compromise the independent evaluation by the commission of any filing or proposal that must be submitted to the commission for approval.

(5) To the extent that WECA is involved in the collection and redistribution of funds under commission orders authorizing certain revenue sharing arrangements under common tariff, it must maintain, provide, and report to the commission annual financial reports, by July 1 of each year, relating to the arrangements. Annual financial reports must include:

(a) Actual fund collections and distributions to each member company;

(b) The basis upon which the collection and distribution is made;

(c) Board membership;

(d) Special committee membership; and

(e) The status and description of any open WECA docket proceedings.

(6) Each local exchange company in the state of Washington has the option of using WECA as its filing agent, tariff bureau, or both. Companies using WECA collectively may file intrastate rates, tariffs, or service proposals.

(7) Nothing in this section will be construed as amending or modifying WECA's current methods of administration.

WECA's access charge pooling administration plan is on file with the commission and may be obtained by contacting the commission's records center and requesting the "Ninth Supplemental Order in Docket No. UT-971140 with Attachment" dated June 28, 2000.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-436 Responsibility for drop facilities and support structure. (1) **Initial provision of service to a premise with no existing drop facilities.** Companies are responsible for designating the route of the drop facility and the type of support structure.

(a) Provision of drop facilities. The company is responsible for all work and materials associated with drop facilities.

(b) Provision of support structure. The company may require the applicant to provide a support structure that meets company standards. Once the company provides service, the company is responsible for maintenance and repair of the existing drop facilities and support structure as provided for in WAC 480-120-437.

(c) Nothing in this rule prohibits the company from offering the applicant an alternative to pay the company a tariffed (~~or price listed~~) rate or rate pursuant to competitive classification for provision of the support structure.

(2) **Requests for initial service or additional service at a premise where all existing pairs within a drop facility are not in use.** A company is responsible for all work and materials associated with the drop facilities and if applicable the support structure so long as the total number of lines requested by the customer does not exceed the original capacity of the drop facility.

Any work or materials associated with repair of abandoned or defective pairs is considered maintenance and repair under WAC 480-120-437.

(3) **Requests for additional service to premises where all existing pairs within a drop facility are not in use or where the total number of lines requested by a customer exceeds the original capacity of the existing drop facility.**

(a) The company is responsible for all costs, including the costs of work and materials, associated with placement of additional drop facilities.

(b) The company may require the applicant to provide a support structure for placement of the new drop facility.

(c) A company must use an existing support structure for placement of the new drop facility when:

(i) The support structure it is large enough to support placement of the new facility; and

(ii) It follows a path which remains suitable to the company; and

(iii) The customer makes the support structure accessible to the company (e.g., uncovers the entry to the conduit and removes any items that would impede the use of the conduit, such as tree roots).

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-450 Enhanced 9-1-1 (E911) obligations of local exchange companies. "Private branch exchange (PBX)" means customer premises equipment installed on the customer's premises that functions as a switch, permitting the customer to receive incoming calls, to dial any other telephone on the premises, to access a tie trunk leading to another PBX or to access an outside trunk to the public switched telephone network.

"Data base management system (DBMS)" means a data base used by local exchange companies (LECs) to provide automatic location information (ALI) to public safety answering points (PSAPs).

"Emergency location identification number (ELIN)" means a telephone number that is used to route the call to a PSAP and is used to retrieve the automatic location information (ALI) for a PSAP.

"Emergency response location (ERL)" means a location to which a 911 emergency response team may be dispatched.

(1) Local exchange companies (LECs) must provide enhanced 9-1-1 (E911) services including:

(a) For single line service, the ability for customers to dial 911 with the call and caller's ELIN transmitted to the E911 selective router serving the location associated with the ERL for that line;

(b) For multiline customers, the ability for customers to dial 911 with common signal protocols available which permit the call and caller's ELIN to be transmitted to the E911 selective router serving the location associated with the ERL for that line;

(c) For pay phones served by pay phone access lines (PALs) the ability for customers to dial 911 with the call and the ELIN transmitted to the E911 selective router serving the location of the ERL for that line. The ELIN must be that of the pay phone.

(2)(a) LECs that provide or make available E911 data base management, whether directly or through contract, must provide to all PBX owners or their agents (including LECs) a simple, internet-based method to maintain customer records in the E911 data base, and the LEC may provide an option of a secure dial up access method for the PBX owner or agent to maintain customer records in the E911 data base. The method must use a generally accepted national format for customer record information.

(b) LECs that provide or make available E911 data base management, whether directly or through contract, must provide or make available to all other LECs a simple, internet-based method to maintain customer records in the E911 data base for their non-PBX customers, and the LEC may provide an option of a secure dial up access or direct data link method for LECs to maintain customer records in the E911 data base. The LEC may offer methods for maintaining station location information that are not internet-based in addition to the required internet-based method.

(c) LECs that provide pay phone access lines must maintain customer record information, including ELIN and ERL information, for those access lines using a method required by (b) of this subsection. The LEC must forward the records

to the data base manager within one business day of a record's posting to the company records system.

(d) For single line services, PBX main station lines, and pay phone lines, LECs must transmit updated location information records to the data base management system (DBMS) within one business day of those records being posted to the company record system.

The LEC must correct records that do not post to the DBMS because of address errors within two working days. If modifications are necessary to the audit tables of the master street address guide, the LEC must resubmit the record within one business day of notification that the master street address guide has been updated.

(e) The LEC or its agent administering the data base must resolve E911 data base errors and inquiries, including selective routing errors, reported by county E911 data base coordinators or PSAPs within five working days of receipt.

(3) LECs choosing to provide E911 services including selective routing, data base management and transmission of the call to a PSAP must file with the commission tariffs and supporting cost studies ~~((or price lists, whichever applies,))~~ that specify the charges and terms for E911 services.

(4)(a) The LEC must permit PBX customers who choose to maintain their own E911 data base or contract that maintenance to a third party, if the customer maintains the data in a generally accepted national format for customer record information.

(b) PBX customers who choose to not use LEC data base management may transmit, or have a third-party transmit, customer record information to their LEC's national data service gateway at no additional charge.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-540 Terminating access charges.

(1)(a) Except for any universal service rate allowed pursuant to subsection (1)(b) of this section, the rates charged by a local exchange company for terminating access service offered by tariff must not exceed the lowest rate charged by the local exchange company for the comparable local interconnection service (in each exchange), such as end office switching or tandem switching. If a local exchange company does not provide local interconnection service (or does so under a bill and keep arrangement), the rates charged for terminating access must not exceed the cost of the terminating access service being provided.

(b) If a local exchange company is authorized by the commission to recover any costs for support of universal access to basic telecommunications service through access charges, it shall recover such costs as an additional, explicit universal service rate element applied to terminating access service.

(2) The rates charged by a local exchange company for terminating access services ~~((offered by price list))~~ that are classified as competitive pursuant to RCW 80.36.320 or 80.36.330 must not exceed the rates charged by the incumbent local exchange company for terminating access service in the comparable geographic area. For purposes of this sub-

section, the rates charged by the incumbent local exchange company include any universal service rate charged pursuant to subsection (1)(b) of this section.

(3) The cost of the terminating access must be determined based on the total service long-run incremental cost of terminating access service plus a reasonable contribution to common or overhead costs. Local loop costs are considered "shared" or "joint" costs and must not be included in the cost of terminating access. However, nothing in this rule prohibits recovery of local loop costs through originating access charges (including switched, special, and dedicated as defined in subsection (4)(a) of this section).

(4) Definitions.

(a) "Access charge" means a rate charged by a local exchange company to an interexchange company for the origination, transport, or termination of a call to or from a customer of the local exchange company. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

(b) "Terminating access service" includes transport only to the extent that the transport service is bundled to the end office or tandem switching service. Dedicated transport unbundled from switching services is not subject to subsection (1) of this section.

(c) "Bill and keep" (also known as "mutual traffic exchange" or "payment in kind") is a compensation mechanism where traffic is exchanged among companies on a reciprocal basis. Each company terminates the traffic originating from other companies in exchange for the right to terminate its traffic on that company's network.

(5) The requirement of subsection (1) of this section that any terminating rate be based on cost must not apply to any local exchange company that is a small business, or to any local exchange company that is competitively classified, if it concurs in the terminating rate of any local exchange company that has filed a terminating rate that complies with the requirements of subsection (1) of this section. For the purposes of this subsection, "small business" has the same meaning as it does in RCW 19.85.020.

(6) Any local exchange company that is required to lower its terminating access rates to comply with this rule may file tariffs or ~~((price lists (as appropriate)))~~ to increase or restructure its originating access charges. The commission will approve the revision as long as it is consistent with this rule, in the public interest and the net effect is not an increase in revenues.

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

WAC 480-120-560 Collocation. (1) Definitions.

"CLEC" means a competing local exchange carrier that orders collocation from an ILEC.

"Collocation" means the ability of a CLEC to place equipment, including microwave equipment, within or upon an ILEC's premises.

"Deliver" or "delivery date" means the point when the ILEC turns the collocation space and related facilities over to the CLEC and the space and facilities are ready for service.

Deliver or delivery includes, but is not necessarily limited to, providing the CLEC with access to the collocation space for collocation other than virtual collocation, as well as providing power, telephone service, and other services and facilities ordered by the CLEC for provisioning by the delivery date.

"ILEC" means an incumbent local exchange carrier that is required to provide collocation.

"ILEC premises" means an ILEC wire center, central office, or any other location owned and/or controlled by the ILEC at which interconnection with the ILEC's network or access to ILEC unbundled network elements is technically feasible.

"Points of interface (POI)" means the demarcation between the networks of an ILEC and a CLEC. The POI is the point where the exchange of traffic takes place.

(2) ILEC response to CLEC order for collocation. Within ten calendar days of receipt of an order for collocation, an ILEC must notify the CLEC whether sufficient space exists in the ILEC premises to accommodate the CLEC's collocation requirements. As part of that notification, the ILEC must also notify the CLEC of any circumstance that may delay delivery of the ordered collocation space and related facilities.

(3) Provisioning collocation. If the ILEC notifies a CLEC that sufficient space exists to accommodate the CLEC's order for collocation, the following procedures apply:

(a) Within twenty-five calendar days of receipt of the order, the ILEC must provide the CLEC with a written quote detailing the nonrecurring and recurring charges applicable to provisioning the ordered collocation. After providing the written quote and upon reasonable notice of a request by the CLEC, the ILEC must permit the CLEC at least one accompanied site visit to the designated collocation space without charge to the CLEC, to enable the CLEC to verify and inspect the space the ILEC offers for collocation. The CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote must be within seven calendar days and does not preclude the CLEC from later disputing the accuracy or reasonableness of those charges.

(b) If the ordered collocation space was included in a periodic forecast submitted by the CLEC to the ILEC at least three months in advance of the order, the ILEC must complete construction of, and deliver, the ordered collocation space and related facilities within forty-five calendar days after the CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote.

(c) If the ordered collocation space was not included in a periodic forecast submitted by the CLEC to the ILEC at least three months in advance of the order, the commission declines to apply the forty-five calendar day interval in (3)(b) and the national standards adopted by the FCC shall apply.

(d) Following any initial notification as required in section (2) above, the ILEC must notify the CLEC of any change in circumstances as soon as the ILEC is aware of those circumstances and must take all reasonable steps to avoid or minimize any delays caused by those circumstances, including but not limited to joint provisioning of collocation ele-

ments by the ILEC and CLEC, or sole construction by the CLEC, through a mutually acceptable third party contractor.

(e) If the ILEC fails to deliver the collocation space by the required delivery date, the ILEC must credit the CLEC in an amount equal to one-tenth of the total nonrecurring charge for the ordered collocation for each week beyond the required delivery date. Recurring charges will not begin to accrue for any element until the ILEC delivers that element to the CLEC. To the extent that a CLEC self-provisions any collocation element, the ILEC may not impose any charges for provisioning that element.

(f) The ILEC must provide periodic notices to the CLEC during construction of the CLEC's collocation space, including scheduled completion and delivery dates. At least thirty calendar days prior to the scheduled delivery date, the ILEC must provide the CLEC with sufficient information to enable the ILEC and the CLEC to establish firm Common Language Location Identifier (CLLI) codes and any other codes necessary to order interconnection and cross-connection circuits for the equipment the CLEC intends to collocate, and the ILEC must accept and process CLEC orders for such circuits. The ILEC must provision points of interface (POIs) and other circuits concurrent with delivery of the collocation space and related facilities, unless the CLEC agrees to a later date.

(g) The ILEC must conduct an inspection with the CLEC of the collocation space at least five business days prior to completion of construction of the collocation space. The ILEC must correct any deviations to the CLEC's original or jointly amended requirements after the inspection, at the ILEC's sole expense.

(h) Upon order of the CLEC and concurrent with delivery of the collocation space and related facilities, the ILEC must provide basic telephone service to the collocation space under the rates, terms, and conditions of the ILEC's current tariff ((or price list)) offering for the service ordered. The ILEC must also provide CLEC employees, contractors, and representatives with reasonable access to basic facilities, such as restroom facilities and parking, while at the ILEC premises.

(4) Denial of order for collocation. If the ILEC notifies a CLEC that insufficient space exists to accommodate the CLEC's order for collocation, the following procedures apply:

(a) As part of its notification of lack of space, the ILEC must notify the CLEC if any space is available for collocation and, if so, how much space is available. The ILEC must also verify that the ILEC cannot reclaim space for collocation by consolidating or removing inactive or underutilized equipment.

(b) The ILEC must permit the CLEC to tour the ILEC premises within fourteen calendar days of the CLEC's written request.

(c) If the CLEC notifies the ILEC that it contests the denial of an order for collocation, the ILEC must, within twenty-five calendar days of the notification, file a petition asking the commission to determine that the space requested by the CLEC is not available. Upon request and execution of an appropriate confidentiality agreement, the ILEC must also provide a copy of the petition to the CLEC. The ILEC must

prepare the petition at its sole expense, and the petition must include the following information:

- (i) Central Office CLLI, where applicable;
- (ii) Ordering CLEC, including the amount of space sought by the CLEC;
- (iii) Written inventory of active, inactive, and underutilized equipment, including the signatures of ILEC personnel certifying the accuracy of the information provided;
- (iv) Color-coded floor plans that identify office space work areas, provide spatial dimensions to calculate the square footage for each area, and locate inactive and underutilized equipment;
- (v) Narrative of the central office floor space use;
- (vi) Total amount of space occupied by interconnecting collocators for the sole purpose of interconnection;
- (vii) Total amount of space occupied by third parties for purposes other than interconnection, and a narrative of the space use;
- (viii) The number of central office employees employed and job titles;
- (ix) Description of central office renovation/expansion plans and time frames for completion;
- (x) Description of conversion of administrative, maintenance, equipment, and storage space plans and time frames for completion; and
- (xi) Description of any internal policies for conversion of administrative, maintenance, equipment, and storage space in central offices.

(d) The commission will decide any petition filed under subsection (4)(c) through an expedited proceeding conducted in accordance with the relevant procedural requirements and time lines established in WAC 480-07-650. The ILEC bears the burden to prove to the commission that the ordered collocation is not practical for technical reasons or because of space limitations. The ILEC may be relieved of its obligation to provide collocation at a particular ILEC premises only to the extent expressly provided by commission order.

(e) Each ILEC must maintain a list of all of its central offices in Washington in which insufficient space exists to accommodate one or more types of collocation. The list must specify which types of collocation are unavailable in each office and whether the commission has approved the ILEC's denial of collocation in that office. The ILEC must post this list on its publicly accessible web site and provide a copy of the list to any CLEC upon request. The ILEC must update this list within ten business days of (i) denying a CLEC's order for collocation; (ii) the service date of any order from the commission approving or disapproving such a denial; (iii) providing notice to CLECs previously denied collocation that space has become available in a central office; or (iv) obtaining knowledge through any other means that space for one or more types of collocation is no longer available or has become available in a particular central office.

(f) Each ILEC must maintain for each central office a waiting list of all unfilled orders for collocation space and the date of each order. After an ILEC has announced that one or more types of collocation space are not available in an office, any CLEC may submit a letter of intent to order collocation space in lieu of a collocation order, and this letter of intent must be included on the waiting list. If space for collocation

becomes available in any central office, the ILEC must inform all CLECs, that ordered collocation or submitted a letter of intent to order collocation, of the availability of that space and must provide each such CLEC with fifteen calendar days to renew its original collocation order. The ILEC must provision collocation to these CLECs on a first-come, first-served basis according to the dates on which each ordered collocation or submitted a letter of intent to collocate in that central office.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-120-196	Customer notice requirements—Competitively classified telecommunications companies or services.
-----------------	---

Chapter 480-121 WAC

REGISTRATION(,) AND COMPETITIVE CLASSIFICATION (~~AND PRICE LISTS~~) OF TELECOMMUNICATIONS COMPANIES

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

WAC 480-121-011 Application of rules. (1) The rules in this chapter apply to any telecommunications company that is subject to the jurisdiction of the commission as to rates and services under the provisions of RCW 80.01.040 and chapters 80.04 and 80.36 RCW.

(2) ~~((Price list provisions filed by telecommunications companies must conform with these rules. If the commission accepts a price list that conflicts with these rules, the acceptance does not constitute a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-121-015. Price lists that conflict with these rules without approval are superseded by these rules.~~

~~(3))~~ Any affected person may ask the commission to review the interpretation of these rules by a telecommunications company or customer by posing an informal complaint under WAC 480-07-910 (Informal complaints) or by filing a formal complaint under WAC 480-07-370 (Pleadings—General).

~~((4))~~ (3) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-018 Delivery of a filing. (1) The commission will accept ~~((an))~~ application(,) for registration as a telecommunications company and petition for competitive classification(~~, and initial price list~~) filings delivered in person, by mail, fax, or (when procedures are in place) electronic means. The commission will stamp a filing received on Sat-

urdays, Sundays, and state holidays, or after 5:00 p.m., Pacific time, as received on the next business day.

(2) In person or by mail.

(a) In order to be deemed received on a given day, the commission records center must receive an original and two copies of the filing by 5:00 p.m., Pacific time.

(b) A filing delivered by mail must be free from all charges for postage. The commission records center will return any postage-due filing to the sender.

(3) Fax filing.

(a) The commission must receive an original and two copies of the filing the following business day.

(b) The commission will use the date and time the fax filing is received and printed at the records center as the official file date.

(c) The commission records center must receive a faxed filing in its entirety by 5:00 p.m., Pacific time, Monday through Friday, except on state holidays, to be considered received on that business day.

(4) Electronic filing.

(a) An electronic filing must conform to commission procedures for electronic filing.

(b) After accepting an electronic filing, the commission will return an electronic mail message noting the receipt date.

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-020 Requirements for applications for registration(~~(?)~~) and petitions for competitive classification(~~(, and initial price lists)~~). (1) Applications for registration and petitions for competitive classification must be in the form prescribed by the commission.

(2) Applications for registration:

(a) Must be filed with a petition for competitive classification (~~and an initial price list~~) unless applicant will not be subject to effective competition;

(b) Must comply with the rules set forth in chapters 480-80 and 480-120 WAC;

(c) Must be filed at the office of the commission in Olympia, Washington; and

(d) Will be assigned a docket number. All documents subsequently filed in the matter must bear that docket number.

(3) The commission may require, with or without hearing, that an applicant for registration clearly show:

(a) Adequate financial resources to provide the proposed service;

(b) Adequate technical competence to provide the proposed service; and

(c) Compliance with all applicable federal, state, and local telecommunications technical and business regulations.

(4) The commission may request that an applicant provide information regarding the applicant's regulatory performance in other states where it operates.

WSR 07-08-030
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed March 27, 2007, 1:40 p.m., effective April 27, 2007]

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

Purpose: Change the name of the "earth science" endorsement to "earth and space science" endorsement.

Citation of Existing Rules Affected by this Order: Amending WAC 181-82A-202.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 07-04-006 on January 24, 200 [2007].

A final cost-benefit analysis is available by contacting Nasue Nishida, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail nasue.nishida@k12.wa.us.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: March 14, 2007.

Nasue Nishida
Policy and Research Analyst

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

WAC 181-82A-202 Certificate endorsements. Teacher certificates shall be endorsed as follows:

(1) **All levels:**

(a) Bilingual education.

(b) Designated arts: Dance.

(c) Designated arts: Theatre arts.

(d) Designated arts: Music: Choral, instrumental or general.

(e) Designated arts, visual arts.

(f) Designated world languages.

(g) English as a second language.

(h) Health/fitness.

(i) Library media.

(j) Reading.

(k) Special education.

(2) **Early childhood:**

(a) Early childhood education.

(b) Early childhood special education.

(3) **Elementary education.**

(4) Middle level:

- (a) Middle level—Humanities.
- (b) Middle level—Math/science.

(5) Secondary level:

- (a) Designated science: Biology.
- (b) Designated science: Chemistry.
- (c) Designated science: Earth and space science.
- (d) Designated science: Physics.
- (e) Designated career and technical education: Agriculture education, business education, family and consumer sciences education, marketing education, and technology education.
- (f) English language arts.
- (g) History.
- (h) Mathematics.
- (i) Science.
- (j) Social studies.
- (k) Traffic safety.

WSR 07-08-040
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Pharmacy)

[Filed March 28, 2007, 8:56 a.m., effective April 28, 2007]

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

Purpose: The adoption of new WAC 246-860-010, 246-860-020, and 246-860-100 is needed to protect the public by establishing clear and consistent definitions of sexual misconduct by health care providers regulated by the board of pharmacy. The rules are intended to help pharmacists, pharmacy interns, and pharmacy ancillary staff avoid sexual misconduct and educate consumers on conduct by health care providers that are inappropriate and may be grounds for discipline.

Statutory Authority for Adoption: RCW 18.64.005 and 18.130.050.

Adopted under notice filed as WSR 06-22-098 on November 1, 2006.

Changes Other than Editing from Proposed to Adopted Version: Rule language changes were made to: Subsection (3), adding "with a former patient, client or key party" after the word section to make clear that subsection (3) spoke specifically to situations involving former patients; and subsection (4) was changed to read more clearly by deleting "is prohibited from engaging" and adding the word "engaged" after health care provider.

A final cost-benefit analysis is available by contacting Doreen E. Beebe, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863, phone (360) 236-4834, fax (360) 586-4359, e-mail doreen.beebe@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Date Adopted: December 14, 2006.

Lisa Salmi
for Rebecca Hille
Board Chair

Chapter 246-860 WAC

STANDARDS OF PROFESSIONAL CONDUCT

NEW SECTION

WAC 246-860-010 Purpose of chapter. The rules in this chapter define certain acts of unprofessional conduct for all individual holders of licenses, registrations and certifications issued by the board of pharmacy.

NEW SECTION

WAC 246-860-020 Definitions. (1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed as a pharmacist, pharmacy intern or pharmacy ancillary personnel.

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities consistent with community standards for the practice of pharmacy as defined in RCW 18.64.011(11).

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

(6) "Pharmacist" means a person licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(7) "Pharmacy ancillary personnel" means persons certified as a pharmacy technician or registered as a pharmacy assistant under chapter 18.64A RCW to engage in the practice of pharmacy under the direct supervision of a licensed pharmacist and to the extent permitted by the board in accordance with chapter 18.64A RCW.

(8) "Pharmacy intern" means a person registered by the Washington state board of pharmacy to engage in the practice of pharmacy.

SEXUAL MISCONDUCTNEW SECTION

WAC 246-860-100 Sexual misconduct. (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

- (a) Sexual intercourse;
- (b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice within the health care practitioner's scope of practice;
- (c) Rubbing against a patient or client or key party for sexual gratification;
- (d) Kissing;
- (e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
- (f) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (g) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (h) Dressing or undressing in the presence of the patient, client or key party;
- (i) Removing patient's or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;
- (j) Encouraging masturbation or other sex act in the presence of the health care provider;
- (k) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;
- (l) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;
- (m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (n) Soliciting a date with a patient, client or key party;
- (o) Discussing the sexual history, preferences or fantasies of the health care provider;
- (p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (q) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;
- (r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;
- (s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and
- (t) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A health care provider shall not:

- (a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

(3) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client, or key party if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(4) When evaluating whether a health care provider engaged, or attempted to engage, in sexual misconduct, the board will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(5) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(6) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

WSR 07-08-044**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed March 28, 2007, 10:14 a.m., effective April 28, 2007]

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

Purpose: The rule amendments are designed to conform (1) with 2006 legislative changes, (2) with reporting date changes for out-of-state committees, and (3) with the elec-

tioning communications statutes. The new rules define "party organization" in RCW 42.17.510 and "receives or expects to receive" in RCW 42.17.405.

Citation of Existing Rules Affected by this Order: Amending WAC 390-18-025.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 07-04-083 on February 5, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 1, Repealed 0.

Date Adopted: March 22, 2007.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-18-025 Advertising—Identification of "top five contributors." (1) For purposes of RCW 42.17.510 (2), (4) and (5), "top five contributors" means the five persons, as defined in RCW 42.17.020, giving the largest aggregate contributions exceeding seven hundred dollars during the twelve-month period preceding the date on which the advertisement is published or otherwise presented to the public. If more than five contributors give an amount equal to the largest aggregate contribution exceeding seven hundred dollars and the funds are received during the relevant twelve-month period, the political committee sponsoring the advertisement shall select five of these contributors to identify as the top five contributors.

(2)((a)) For independent expenditure advertisements or electioneering communications, the "top five contributors" identification requirement of RCW 42.17.510 applies to all political committees that make independent expenditures, including continuing political committees and out-of-state political committees subject to chapter 42.17 RCW other than a bona fide political party committee.

~~((b) For electioneering communications, the "top five contributors" identification requirement of RCW 42.17.510 applies to all political committees that make electioneering communications including continuing political committees and out-of-state political committees subject to chapter 42.17 RCW.)~~

(3) If a political committee keeps records necessary to track contributions according to the use intended by contributors, and the committee subsequently makes independent

expenditures for advertisements supporting or opposing a candidate or slate of candidates or an electioneering communication identifying a specific candidate or slate of candidates, that committee may identify the top five contributors giving for that purpose, as opposed to identifying the overall top five contributors to the committee as is otherwise required by RCW 42.17.510 and this section.

However, a contributor's contributions earmarked for independent expenditures supporting or opposing a specific candidate or slate of candidates or electioneering communications identifying a specific candidate or slate of candidates shall not be used with respect to a different candidate or slate of candidates without the contributor being identified as one of the top five contributors for the actual expenditure if that contributor is one of the top five contributors for that expenditure.

NEW SECTION

WAC 390-16-320 Candidates in small political subdivisions—Reporting. (1) According to RCW 42.17.030 and 42.17.405(7), a candidate for election in any political subdivision must report pursuant to chapter 42.17 RCW and Title 390 WAC if the candidate receives five thousand dollars or more in contributions or expects to receive five thousand dollars or more in contributions during an election cycle.

(2) It is presumed the candidate "expects to receive" five thousand dollars or more when any one of the following first occurs:

(a) The candidate or candidate's authorized committee receives at least five thousand dollars in aggregate contributions, including contributions from the candidate;

(b) The candidate is seeking the same office last sought, the candidate's election is in the current calendar year, and his or her campaign contributions in the previous election for the same office were five thousand dollars or more in the aggregate;

(c) The contributions received on or before March 31 of the election year total one thousand two hundred fifty dollars or more;

(d) The contributions received on or before June 30 of the election year total two thousand five hundred dollars or more;

(e) The contributions received on or before September 30 of the election year total three thousand seven hundred fifty dollars or more; or

(f) The candidate otherwise anticipates that five thousand dollars or more will be received during the election cycle.

(3) Surplus funds carried over from a candidate's previous campaign are not contributions to the candidate's new campaign and do not count toward the five thousand dollar reporting threshold.

(4) A candidate or candidate's authorized committee that receives, or expects to receive, five thousand dollars or more shall:

(a) Within two weeks of the date the reporting obligation begins under subsection (1) or (2) of this section, file:

(i) A candidate registration, PDC form C1;

(ii) A personal financial affairs statement, PDC form F1 and, if relevant, the F1 Supplement; and

(iii) Contribution and expenditure reports, PDC forms C3 and C4 with appropriate attachments and schedules; and

(b) Otherwise comply with the campaign finance reporting and other provisions of chapter 42.17 RCW and Title 390 WAC.

NEW SECTION

WAC 390-05-275 Definition—Party organization.

"Party organization," as that term is used in chapter 42.17 RCW and Title 390 WAC, means a bona fide political party as defined in RCW 42.17.020.

WSR 07-08-050

PERMANENT RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed March 28, 2007, 3:38 p.m., effective April 28, 2007]

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

Purpose: Change rules and clarify language for the principal/program administrator professional certificate.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-507 and 181-78A-535.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 06-20-123 on October 4, 2006.

A final cost-benefit analysis is available by contacting Nasue Nishida, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail nasue.nishida@k12.wa.us.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 15, 2007.

Nasue Nishida

Policy and Research Analyst

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-78A-507 Overview—Principal/program administrator professional certificate programs. By September 1, 2007, all colleges and universities offering a pro-

fessional certificate program for principals/program administrators must be in compliance with the new program standards. To obtain a professional certificate, the residency principal will need to complete a professional educator standards board-approved professional certificate program, have satisfactory district evaluations for an administrator role, and document three contracted school years of employment as a principal or assistant principal; the residency program administrator will need to complete a professional educator standards board-approved professional certificate program and have satisfactory district evaluations for an administrator role.

The professional certificate for principals/program administrators requires successful demonstration of six standards at the professional certification benchmark levels, or above, and the candidate will need to provide evidence that he/she has had a positive impact on student learning.

The candidate and college or university shall develop an individual professional growth plan ~~((to be reviewed and agreed upon after input from and consultation and collaboration with his/her professional growth team. The individual growth plan))~~ that shall address the six knowledge and skills standards, focus on activities that enhance student learning, and be informed by the performance evaluation process, and an analysis of the administrative context and assignment.

AMENDATORY SECTION (Amending WSR 06-14-010 [07-04-004], filed 6/22/06 [1/24/07], effective 7/23/06 [2/24/07])

WAC 181-78A-535 Approval standard—Program design. The following requirements shall govern the design of the professional certificate program:

(1) **Teacher.**

(a) To be eligible to apply for admission to a professional certificate program, a candidate shall hold a contract as a teacher in a public or a professional educator standards board-approved private school or state agency providing educational services for students and shall have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with a professional educator standards board-approved private school or state agency providing educational services for students or the candidate provides to the program a letter from the candidate's employing district, professional educator standards board-approved private school, or state agency providing educational services for students, documenting the employer's support for the candidate's full admission to the professional certificate program: Provided, That a candidate for the professional teacher's certificate may enroll in and complete the preassessment seminar described in subsection (4)(a) of this section prior to admission to a professional certificate program.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the descriptions of practice related to the criteria for the professional certificate, as approved by the professional educator standards board and published by the office of the superintendent of public instruction, which may not be changed without prior professional educator standards board approval, the professional certificate program shall be devel-

oped by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar which considers input from the candidate's "professional growth team" (WAC 181-78A-505), the candidate's past experience, the context in which he/she teaches, information from past annual evaluations if the individual chooses, the candidate's personal and professional goals, his/her self-evaluation, and evidences of the candidate's impact on student learning.

The seminar will culminate in preparation and approval of the candidate's individual professional growth plan designed to provide the candidate with the knowledge and skills needed to demonstrate successfully the standards and criteria required by WAC 181-78A-540.

A representative of the college/university and the candidate shall develop the professional growth plan to be reviewed and agreed upon after input from and consultation and "collaboration" (WAC 181-78A-010(9)) with his/her "professional growth team" (WAC 181-78A-010(10)).

The individual professional growth plan shall be based on:

(A) An analysis of the instructional context and teaching assignment(s) to determine strategies which the teacher should use to achieve a positive impact on student learning.

(B) An assessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(C) Specifications of assistance and instructional components needed and any required course work.

(ii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "effective teaching" as defined in WAC 181-78A-540(1).

(iii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "professional development" as defined in WAC 181-78A-540(2).

(iv) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to professional contributions as defined in WAC 181-78A-540(3).

(v) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; identification of future goals and professional/career interests; and specification of areas for continuing education and development. The candidate must provide multiple forms of evidence which shall include, but are not limited to, the descriptions of practice related to the criteria for the professional certificate as approved by the professional educator standards board and

published by the office of the superintendent of public instruction, which may not be changed without prior professional educator standards board approval.

(vi) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for appropriate assistance and instruction.

(vii) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the culminating seminar.

(2) Principal/program administrator.

(a) To be eligible to apply for enrollment in a professional certificate program, a candidate shall hold a contract as ~~((an administrator for which the credential is required))~~ a principal, assistant principal, or program administrator in a public school or professional educator standards board-approved private school.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the six knowledge and skills standards, and the standards-based benchmarks as approved by the professional educator standards board and published by the office of the superintendent of public instruction, which may not be changed without professional educator standards board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) ~~((A preassessment))~~ An entry seminar during which the professional growth plan shall be developed. The plan ~~((will be agreed upon after input from and consultation with his/her professional growth team (WAC 181-78A-010(10)(b)). The individual professional growth plan))~~ shall be based on an assessment of the candidate's ability to demonstrate six standards at the professional certificate benchmark level (WAC 181-78A-270 (2)(b)), performance evaluation data, and an analysis of the administrative context and assignment.

(ii) Formalized learning opportunities, past and current experience, professional development opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards as defined in WAC 181-78A-270 (2)(b).

(iii) A ~~((culminating seminar in))~~ final presentation to a panel that includes experienced administrators, during which the candidate ~~((presents his/her final documentation and))~~ provides evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; ~~((development of))~~ and a professional growth plan that includes the identification of future goals and professional/career interests as well as a five-year plan for professional development designed to meet the requirements for certificate renewal.

(e) Candidates who do not successfully complete a ~~((culminating seminar))~~ final presentation shall receive an individualized analysis of strengths and weaknesses and a plan

for assistance, and shall be allowed additional opportunities to present evidence pertaining to benchmarks not previously met.

~~((f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.))~~

(3) Educational staff associate (ESA) - school counselor, school psychologist, school social worker.

(a) To be eligible for enrollment in a professional certificate program, a candidate shall be employed in his/her ESA role in a public school, a professional educator standards board-approved private school, or state agency providing educational services for students.

(b) The professional certificate must be available to all qualified candidates.

(c) Using the knowledge and skills standards in WAC 181-78A-270 (5), (7), and (9), and the standards-based benchmarks as approved by the professional educator standards board and published by the office of the superintendent of public instruction, which may not be changed without professional educator standards board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with the ESA candidate's professional growth team (WAC 181-78A-010(10)(c)). The individual's professional growth plan shall be based on an assessment of the candidate's ability to demonstrate the standards at the professional certificate benchmark level in the specific ESA role pursuant to WAC 181-78A-270 (5), (7), or (9).

(ii) Formalized learning opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards in the specific ESA role as defined in WAC 181-78A-270 (5), (7), or (9).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill, and performance; positive impact on student learning; and specification of areas for continuing education and development.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

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

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 07-08-052
PERMANENT RULES
DEPARTMENT OF HEALTH**

(Board of Osteopathic Medicine and Surgery)
[Filed March 29, 2007, 8:19 a.m., effective April 29, 2007]

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

Purpose: The rule establishes and clarifies the types of drugs that can be prescribed, ordered, and dispensed by an osteopathic physician assistant. The rule also indicates that prescriptions must be written in accordance with state and federal drug laws. The rule removes the requirement that the supervisor must approve or sign for all drugs prior to administration, dispensing or releasing the medication to the patient.

Citation of Existing Rules Affected by this Order: Amending WAC 246-854-030 Osteopathic physician assistant prescriptions.

Statutory Authority for Adoption: RCW 18.57A.020.

Adopted under notice filed as WSR 06-22-097 on November 1, 2006.

A final cost-benefit analysis is available by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: January 26, 2007.

Daniel Dugaw, DO
Board Chair

AMENDATORY SECTION (Amending WSR 93-24-028, filed 11/22/93, effective 12/23/93)

WAC 246-854-030 Osteopathic physician assistant prescriptions. (1) An osteopathic physician assistant may issue written or oral prescriptions as provided (~~herein~~) in this section when designated by the supervising physician on the practice plan and approved by the board (~~and assigned by the supervising physician~~).

~~((1) Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician assistant.~~

~~(a) Written prescriptions shall be written on the blank of the supervising physician and shall include the name, address~~

and telephone number of the physician and physician assistant. The prescription shall also bear the name and address of the patient and the date on which the prescription was written.

~~(b) The physician assistant shall sign such a prescription by signing his or her own name followed by the letters "P.A." and the physician assistant license number or~~ (a) An osteopathic physician assistant certified by the National Commission on Certification of Physician Assistants (P.A.-C.) may issue prescriptions for legend drugs and Schedule II through V controlled substances.

(b) A noncertified osteopathic physician assistant (P.A.) may issue prescriptions for legend drugs and Schedule III through V controlled substances.

(2) Written prescriptions shall comply with state and federal prescription writing laws. The osteopathic physician assistant shall sign a prescription by using his or her own name followed by the letters "P.A." to designate a noncertified osteopathic physician assistant, or "P.A.-C." to designate a certified osteopathic physician assistant and the physician assistant's license number.

(3) Prescriptions for Schedule II through V controlled substances must include the osteopathic physician assistant drug enforcement administration registration number or, if none, the supervising physician's drug enforcement administration registration number, followed by the initials "P.A." and the physician assistant license number issued by the board.

~~(e) Prescriptions for legend drugs and schedule three through five controlled substances must each be approved or signed by the supervising physician prior to administration, dispensing or release of the medication to the patient, except as provided in subsection (5) of this section).~~

~~((2-A))~~ (4) An osteopathic physician assistant may issue prescriptions for a patient who is under his or her care, or the care of the supervising osteopathic physician.

(5) An osteopathic physician assistant employed or having been extended privileges by a hospital, nursing home or other health care institution may, if permissible under the bylaws and rules (and regulations) of the institution, (write medical orders, except those for schedule two controlled substances,) order pharmaceutical agents for inpatients under his or her care or the care of the supervising osteopathic physician (responsible for his or her supervision).

~~((3) The license of a physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.~~

~~(4))~~ (6) An osteopathic physician assistant may dispense legend drugs and controlled substances from office supplies. An osteopathic physician assistant(s) may (not) dispense prescription drugs (to exceed) for treatment (for) up to forty-eight hours (except as provided in subsection (6) of this section). The medication so dispensed must comply with the state law prescription labeling requirements.

~~((5) Authority to issue prescriptions for legend drugs and schedule three through five controlled substances without the prior approval or signature of the supervising physician may be granted by the board to an osteopathic physician assistant who has:~~

~~(a) Provided a statement signed by)) (7) The supervising physician ((that he or she)) shall assume((s)) full responsibility ((and that he or she will)) for review of the osteopathic physician assistant's prescription writing practice on an ongoing basis(;~~

~~(b) A certificate from the National Commission on Certification of Physician Assistants';~~

~~(e) Demonstrated the necessity in the practice for authority to be granted permitting a physician assistant to issue prescriptions without prior approval or signature of the supervising physician.~~

~~(6) A physician assistant authorized to issue prescriptions under subsection (5) of this section may dispense medications the physician assistant has prescribed from office supplies. The physician assistant shall comply with the state laws concerning prescription labeling requirements).~~

WSR 07-08-055

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed March 29, 2007, 9:15 a.m., effective April 29, 2007]

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

Purpose: The Washington state legislature has adopted the updated Uniform Interstate Family Support Act (UIFSA) as chapter 26.21A RCW, effective January 1, 2007. The division of child support (DCS) is adopting new and amended rules [that] will be required in order to allow the Washington child support program to comply with UIFSA under our state plan under Title IV-D of the federal Social Security Act. There are eleven new rules and nine amended rules in this filing.

Amended Rules: WAC 388-14A-2105 Basic confidentiality rules for the division of child support, 388-14A-3304 The division of child support may serve(s) a notice of support debt and demand for payment when it is enforcing a support order issued in Washington state, a foreign court order or a foreign administrative order for support, 388-14A-3925 Who can ask to modify an administrative support order?, 388-14A-5300 How does the division of child support recover a support payment which has already been distributed?, 388-14A-6100 The division of child support accepts oral requests for hearing or conference board, 388-14A-7100 The division of child support may register an (An) order from another state ((may be registered in Washington)) for enforcement or modification, 388-14A-7110 The division of child support may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state, and 388-14A-7200 DCS can serve notices in other states under the Uniform Interstate Family Support Act.

Newly Adopted Rules: WAC 388-14A-3305 What can I do if I disagree with a notice of support debt and demand for payment?, 388-14A-3306 Does a notice of support debt and demand for payment result in a final determination of support

arrears?, 388-14A-3307 How does the division of child support proceed when there are multiple child support orders for the same obligor and children?, 388-14A-7125 What happens at a hearing on a notice of support debt and registration?, 388-14A-7135 What is the effect of confirmation of a registered order on the finality of the support debt calculation?, 388-14A-7305 How do I ask DCS to do a determination of controlling order?, 388-14A-7315 When might DCS deny a request for a determination of controlling order?, 388-14A-7325 How does DCS notify the parties of its determination of the controlling order?, 388-14A-7335 What happens if someone objects to DCS' proposed determination of controlling order?, 388-14A-7345 What is the effect of a determination of controlling order on the finality of the debt calculation?, 388-14A-7400 What can I do if I want to contest an interstate order to withhold income served on my employer?, and 388-14A-7500 What can I do if I am concerned about the release of my personal information in an interstate referral?

Note: The DSHS DCS has adopted emergency rules under WSR 07-02-070, effective January 1, 2007, so that we would have rules in effect while going through the regular rule-making process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-2105, 388-14A-3304, 388-14A-3305, 388-14A-3925, 388-14A-5300, 388-14A-6100, 388-14A-7100, 388-14A-7110, and 388-14A-7200.

Statutory Authority for Adoption: RCW 34.05.220(2), 43.20A.550, 74.04.055, 74.08.090, 74.20.040, 74.20A.310.

Adopted under notice filed as WSR 07-04-066 on February 1, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 9, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 11, Amended 9, Repealed 0.

Date Adopted: March 28, 2007.

Jim Schnellman, Chief
Office of Administrative Resources

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 07-09 issue of the Register.

Purpose: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of the Washington state ferry's farebox revenue needs. No major effects are anticipated.

Citation of Existing Rules Affected by this Order: Amending WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.326.

Adopted under notice filed as WSR 07-04-106 on February 7, 2007.

Changes Other than Editing from Proposed to Adopted Version: The ferry tolls in the adopted version represent an approximate 2.5% increase in tolls (vs. a 4.0% increase in the proposed version).

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: March 22, 2007.

Reema Griffith
Executive Director
Transportation Commission

WSR 07-08-064

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed March 29, 2007, 2:36 p.m., effective May 1, 2007]

Effective Date of Rule: May 1, 2007.

AMENDATORY SECTION (Amending WSR 06-08-036, filed 3/29/06, effective 5/1/06)

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. May 1, ((2006)) 2007

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Multiride Media 20 Rides ¹	Monthly Pass ⁵	Bicycle Surcharge ^{2,6}
Via Passenger-Only Ferry						
*Seattle-Vashon	((8.50)) 8.70	((4.25)) 4.35	((7.20)) 7.40	((72.00)) 73.60	((115.20)) 117.80	1.00
Via Auto Ferry						
*Fauntleroy-Southworth	((5.00)) 5.20	((2.50)) 2.60	((4.00)) 4.20	((40.00)) 41.60	((65.00)) 66.60	1.00
*Seattle-Bremerton						
*Seattle-Bainbridge Island	((6.50)) 6.70	((3.25)) 3.35	((5.20)) 5.40	((52.00)) 53.60	((84.20)) 85.80	1.00
*Edmonds-Kingston	((2.50)) 2.60	((1.25)) 1.30	((2.00)) 2.10	((40.00)) 41.60	((65.00)) 66.60	0.50
Port Townsend-Keystone						
*Fauntleroy-Vashon						
*Southworth-Vashon	((4.20)) 4.30	((2.10)) 2.15	((3.40)) 3.45	((33.60)) 34.40	((54.80)) 55.05	1.00
*Pt. Defiance-Tahlequah	((3.85)) 3.95	((1.90)) 1.95	((3.10)) 3.20	((30.80)) 31.60	((50.30)) 50.60	1.00
*Mukilteo-Clinton						
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tuesday	((9.60)) 9.85	((4.80)) 4.90	((7.70)) 7.90	((69.25)) 71.20	N/A	2.00 ⁷
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Sat- urday	((10.65)) 10.95	((5.30)) 5.45	((8.55)) 8.80	((69.25)) 71.20	N/A	2.00 ⁷
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	((15.60)) 16.00	((7.80)) 8.00	((12.50)) 12.80	N/A	N/A	4.00 ⁸
From Lopez, Shaw, Orcas and Fri- day Harbor to Sidney@	((5.85)) 6.00	((2.90)) 3.00	((4.90)) 4.80	N/A	N/A	1.00 ⁹
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((21.45)) 22.00	((10.70)) 11.00	((17.20)) 17.60	N/A	N/A	5.00 ¹⁰

All fares rounded to the next multiple of \$0.05.

* These routes operate as a one-point toll collection system.

¹MULTIRIDE MEDIA - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. Subsequent to the implementation of the Electronic Fare System (EFS) in the fall of 2005, this will be replaced by a 20 ride card valid for 90 days from the date of purchase. For mail order deliveries, WSF may add additional days to allow for delivery times. Starting on the earliest fare change opportunity (May 1 or the second Sunday in October) at a minimum 6 months after completion of system-wide implementation of the Electronic Fare System (EFS), purchase of this product at a toll booth will be 5% higher, not to exceed an additional \$2.50, at terminals where kiosks are available, except for customers paying with commuter vouchers made available through local transit agencies or qualifying for the senior/disabled and youth fares.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state fer-

ries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE PERMIT - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

⁷BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 until the second Sunday in October).

⁸BICYCLE SURCHARGE - This becomes \$6.00 during peak season.

⁹BICYCLE SURCHARGE - This becomes \$2.00 during peak season.

¹⁰BICYCLE SURCHARGE - This becomes \$8.00 during peak season.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths

six through eighteen years of age will be charged the youth fare, which will be 80% of full fare rounded to the next multiple of \$((0-10)) 0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a ((~~volume-based back-end~~)) monthly discount to ((~~match frequent user policies and~~)) approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. ((~~On a monthly basis, discount credits for each account will be calculated based on equivalent multiride media level of usage.~~)) The credits will be approximately based on the discount ((~~olicies and~~)) rates offered to ((~~frequent~~)) multiride media users

applicable on the date of travel. This program will expire after April 30, ((2007)) 2008.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. This media shall be valid only until the first of May following the date of purchase, after which time the coupons shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied to passengers from May 1 to the second Sunday in October, except those using frequent user fare media, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

AMENDATORY SECTION (Amending WSR 06-08-036, filed 3/29/06, effective 5/1/06)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

EFFECTIVE 03:00 A.M. May 1, ((2006)) 2007

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Multiride Media 20 Rides ²
Fauntleroy-Southworth Port Townsend/Key-stone	((8.70)) 8.90	((7.45)) 7.60	((8.70)) 8.90	((139.20)) 142.40
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((11.25)) 11.55	((9.60)) 9.85	((11.25)) 11.55	((180.00)) 184.80
*Fauntleroy-Vashon *Southworth-Vashon	((14.40))	((12.30))	((14.40))	((115.20))
*Pt. Defiance-Tahlequah	14.80	12.65	14.80	118.40
Mukilteo-Clinton	((6.65)) 6.85	((5.65)) 5.85	((6.65)) 6.85	((106.40)) 109.60
10 Rides - 5 Round Trips				
*Anacortes to Lopez - Sunday-Tuesday	((23.35)) 23.95	((18.55)) 19.00	((23.35)) 23.95	((97.15)) 99.75

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Multiride Media 20 Rides ²
*Lopez - Wednesday-Saturday	((25.90)) <u>26.60</u>	((20.55)) <u>21.10</u>	((25.90)) <u>26.60</u>	((97.15)) <u>99.75</u>
*Shaw, Orcas - Sunday-Tuesday	((27.95)) <u>28.75</u>	((23.15)) <u>23.80</u>	((27.95)) <u>28.75</u>	((116.45)) <u>119.65</u>
*Shaw, Orcas - Wednesday-Saturday	((31.05)) <u>31.90</u>	((25.70)) <u>26.40</u>	((31.05)) <u>31.90</u>	((116.45)) <u>119.65</u>
*Friday Harbor - Sunday-Tuesday	((33.25)) <u>34.15</u>	((28.45)) <u>29.20</u>	((33.25)) <u>34.15</u>	((138.40)) <u>142.15</u>
*Friday Harbor - Wednesday-Saturday	((36.90)) <u>37.90</u>	((31.55)) <u>32.40</u>	((36.90)) <u>37.90</u>	((138.40)) <u>142.15</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((15.45)) <u>16.65</u>	((15.45)) <u>16.65</u>	((15.45)) <u>16.65</u>	((61.80)) <u>66.40</u>
<i>International Travel</i>				
Anacortes to Sidney and Sidney to all destinations	((41.90)) <u>42.95</u>	((34.10)) <u>35.95</u>	((41.90)) <u>42.95</u>	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁶	((26.90)) <u>27.95</u>	((19.10)) <u>19.95</u>	((41.90)) <u>42.95</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((12.45)) <u>12.80</u>	((9.50)) <u>9.80</u>	((12.45)) <u>12.80</u>	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁷	((5.45)) <u>5.80</u>	((2.50)) <u>2.80</u>	((12.45)) <u>12.80</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((54.35)) <u>55.75</u>	((43.60)) <u>44.75</u>	((54.35)) <u>55.75</u>	N/A

EFFECTIVE 03:00 A.M. May 1, ((2006)) 2007

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ¹ One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹ One Way	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Commuter 20 Rides ²
Fauntleroy-Southworth Port Townsend/Key-stone	((3.75)) <u>3.85</u>	((2.50)) <u>2.55</u>	((1.25)) <u>1.30</u>	((60.00)) <u>61.60</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((4.85)) <u>5.00</u>	((3.20)) <u>3.30</u>	((1.60)) <u>1.65</u>	((77.60)) <u>80.00</u>
*Fauntleroy-Vashon *Southworth-Vashon	((6.25)) <u>6.40</u>	((4.15)) <u>4.25</u>	((2.05)) <u>2.10</u>	((50.00)) <u>51.20</u>
*Pt. Defiance-Tahlequah	((2.90)) <u>2.95</u>	((1.90)) <u>1.95</u>	1.00	((46.40)) <u>47.20</u>
*Anacortes to Lopez - Sunday-Tuesday	((12.35)) <u>12.70</u>	((7.55)) <u>7.75</u>	((2.75)) <u>2.85</u>	((102.75)) <u>105.75</u>
*Lopez - Wednesday-Saturday	((13.70)) <u>14.10</u>	((8.35)) <u>8.60</u>	((3.05)) <u>3.15</u>	((102.75)) <u>105.75</u>
*Shaw, Orcas - Sunday-Tuesday	((13.30)) <u>13.65</u>	((8.50)) <u>8.70</u>	((3.70)) <u>3.80</u>	((110.65)) <u>113.65</u>
*Shaw, Orcas - Wednesday-Saturday	((14.75)) <u>15.15</u>	((9.40)) <u>9.65</u>	((4.10)) <u>4.20</u>	((110.65)) <u>113.65</u>
*Friday Harbor - Sunday-Tuesday	((14.35)) <u>14.75</u>	((9.55)) <u>9.80</u>	((4.75)) <u>4.90</u>	((119.25)) <u>122.65</u>
*Friday Harbor - Wednesday-Saturday	((15.90)) <u>16.35</u>	((10.55)) <u>10.85</u>	((5.25)) <u>5.40</u>	((119.25)) <u>122.65</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((4.40)) <u>4.75</u>	((4.40)) <u>4.75</u>	((4.40)) <u>4.75</u>	N/A
Anacortes to Sidney and Sidney to all destinations	((20.90)) <u>21.40</u>	((13.10)) <u>13.40</u>	((5.30)) <u>5.40</u>	N/A
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁶	N/A	N/A	N/A	N/A

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ¹	Motorcycle w/Sr Citizen or Disabled Driver Stowage ¹	Motorcycle Oversize Charge ¹	Motorcycle Frequent User Commuter 20 Rides ²
	One Way	One Way		
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((7.20)) 7.40	((4.25)) 4.40	((1.35)) 1.40	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁷	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((28.10)) 28.80	((17.35)) 17.80	((6.65)) 6.80	N/A

All fares rounded to the next multiple of \$0.05.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund. For mail order deliveries, WSF may add additional days to allow for delivery time. Starting on the earliest fare change opportunity (May 1 or the second Sunday in October) at a minimum 6 months after completion of system-wide implementation of the Electronic Fare System (EFS), purchase of this product at a toll booth will be 5% higher, not to exceed an additional \$2.50, at terminals where kiosks are available, except for customers paying with commuter vouchers made available through local transit agencies or qualifying for the senior/disabled and youth fares.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

⁵ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁷RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit

valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the first Sunday in May to the second Sunday in October except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a (~~volume-based back-end~~) monthly discount to (~~match frequent user policies and~~) approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. (~~On a monthly basis, discount credits for each account will be calculated based on equivalent multiride media level of usage-~~) The credits will be approximate based on the discount (~~policies and~~) rates offered to (~~frequent~~) multiride media users applicable on the date of travel. This program will expire after April 30, (~~2007~~) 2008.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include,

but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. This media shall be valid only until the first of May following the date

of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time. Anacortes to San Juan Islands senior/disabled fares will be bundled at the applicable early week price.

AMENDATORY SECTION (Amending WSR 06-08-036, filed 3/29/06, effective 5/1/06)

WAC 468-300-040 Oversize vehicle ferry tolls.

EFFECTIVE 03:00 A.M. May 1, (~~2006~~) 2007

ROUTES	Oversize Vehicle Ferry Tolls ¹							Cost Per Ft. Over 80' @
	Overall Unit Length - Including Driver							
	20' To Under 30' Under 7'6" High	20' To Under 30' Over 7'6" High	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'	
Fauntleroy-Southworth	((13.05))	((26.10))	((34.80))	((43.50))	((52.20))	((60.90))	((69.60))	0.90
Port Townsend/Keystone	<u>13.35</u>	<u>26.70</u>	<u>35.60</u>	<u>44.50</u>	<u>53.40</u>	<u>62.30</u>	<u>71.20</u>	
Seattle-Bainbridge Island								
Seattle/Bremerton	((16.90))	((33.75))	((45.00))	((56.25))	((67.50))	((78.75))	((90.00))	((1.15))
Edmonds-Kingston	<u>17.35</u>	<u>34.65</u>	<u>46.20</u>	<u>57.75</u>	<u>69.30</u>	<u>80.85</u>	<u>92.40</u>	<u>1.20</u>
*Fauntleroy-Vashon								
*Southworth-Vashon	((21.60))	((43.20))	((57.60))	((72.00))	((86.40))	((100.80))	((115.20))	((1.45))
*Pt. Defiance-Tahlequah	<u>22.20</u>	<u>44.40</u>	<u>59.20</u>	<u>74.00</u>	<u>88.80</u>	<u>103.60</u>	<u>118.40</u>	<u>1.50</u>
	((10.00))	((19.95))	((26.60))	((33.25))	((38.90))	((46.55))	((53.20))	
Mukilteo-Clinton	<u>10.30</u>	<u>20.55</u>	<u>27.40</u>	<u>34.25</u>	<u>41.10</u>	<u>47.95</u>	<u>54.80</u>	0.70
*Anacortes to Lopez - Sunday-Tuesday ²	((35.05))	((70.05))	((93.40))	((116.75))	((140.10))	((168.45))	((186.80))	((2.35))
	<u>35.95</u>	<u>71.85</u>	<u>95.80</u>	<u>119.75</u>	<u>143.70</u>	<u>167.65</u>	<u>191.60</u>	<u>2.40</u>
*Anacortes to Shaw, Orcas - Sunday-Tuesday ²	((41.95))	((83.85))	((111.80))	((139.75))	((167.70))	((195.65))	((223.60))	((2.80))
	<u>43.15</u>	<u>86.25</u>	<u>115.00</u>	<u>143.75</u>	<u>172.50</u>	<u>201.25</u>	<u>230.00</u>	<u>2.90</u>
*Anacortes to Friday Harbor - Sunday-Tuesday	((48.00))	((96.00))	((128.00))	((160.00))	((192.00))	((224.00))	((256.00))	((3.20))
	<u>51.25</u>	<u>102.45</u>	<u>136.60</u>	<u>170.75</u>	<u>204.90</u>	<u>239.05</u>	<u>273.20</u>	<u>3.45</u>
*Anacortes to Lopez - Wednesday-Saturday ²	((38.85))	((77.70))	((103.60))	((129.50))	((155.40))	((181.30))	((207.20))	((2.60))
	<u>39.90</u>	<u>79.80</u>	<u>106.40</u>	<u>133.00</u>	<u>159.60</u>	<u>186.20</u>	<u>212.80</u>	<u>2.70</u>
*Anacortes to Shaw, Orcas - Wednesday-Saturday ²	((46.60))	((93.15))	((124.20))	((155.25))	((186.30))	((217.35))	((248.90))	((3.15))
	<u>47.85</u>	<u>95.70</u>	<u>127.60</u>	<u>159.50</u>	<u>191.40</u>	<u>223.30</u>	<u>255.20</u>	<u>3.20</u>
*Anacortes to Friday Harbor - Wednesday-Saturday	((53.35))	((106.65))	((142.20))	((177.75))	((213.30))	((248.85))	((289.40))	((3.60))
	<u>56.85</u>	<u>113.70</u>	<u>151.60</u>	<u>189.50</u>	<u>227.40</u>	<u>265.30</u>	<u>303.20</u>	<u>3.80</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((23.20))	((46.35))	((61.80))	((77.25))	((92.70))	((108.15))	((123.60))	N/A
	<u>25.00</u>	<u>49.95</u>	<u>66.60</u>	<u>83.25</u>	<u>99.90</u>	<u>116.55</u>	<u>133.20</u>	
<i>International Travel</i>								
Anacortes to Sidney to all destinations - Recreational Vehicles and Buses	((62.85))	((62.85))	((83.80))	((104.75))	((125.70))	((146.65))	((167.60))	((2.10))
	<u>64.45</u>	<u>64.45</u>	<u>85.90</u>	<u>107.40</u>	<u>128.85</u>	<u>150.35</u>	<u>171.80</u>	<u>2.15</u>
Anacortes to Sidney and Sidney to all destinations - Commercial Vehicles	((62.85))	((125.70))	((167.60))	((209.50))	((251.40))	((293.30))	((335.20))	((4.20))
	<u>64.45</u>	<u>128.85</u>	<u>171.80</u>	<u>214.75</u>	<u>257.70</u>	<u>300.65</u>	<u>343.60</u>	<u>4.30</u>
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations - Recreational Vehicles and Buses	((47.85))	((47.85))	((68.80))	((89.75))	((110.70))	((131.65))	((152.60))	((2.10))
	<u>49.45</u>	<u>49.45</u>	<u>70.90</u>	<u>92.40</u>	<u>113.85</u>	<u>135.35</u>	<u>156.80</u>	<u>2.15</u>
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations ⁵ - Commercial Vehicles	((47.85))	((110.70))	((152.60))	((194.50))	((236.40))	((278.30))	((320.20))	((4.20))
	<u>49.45</u>	<u>113.85</u>	<u>156.80</u>	<u>199.75</u>	<u>242.70</u>	<u>285.65</u>	<u>328.60</u>	<u>4.30</u>
	((18.70))	((18.70))	((24.90))	((31.15))	((37.35))	((43.60))	((49.80))	
Lopez, Shaw, Orcas and Friday Harbor to Sidney - Recreational Vehicles and Buses - Commercial Vehicles	<u>19.20</u>	<u>19.20</u>	<u>25.60</u>	<u>32.00</u>	<u>38.40</u>	<u>44.80</u>	<u>51.20</u>	0.65
	((18.70))	((37.35))	((49.80))	((62.25))	((74.70))	((87.15))	((99.60))	((1.25))
	<u>19.20</u>	<u>38.40</u>	<u>51.20</u>	<u>64.00</u>	<u>76.80</u>	<u>89.60</u>	<u>102.40</u>	<u>1.30</u>

ROUTES	Oversize Vehicle Ferry Tolls ¹ Overall Unit Length - Including Driver							Cost Per Ft. Over 80' @
	20' To Under 30' Under 7'6" High	20' To Over 7'6" High	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To under 70'	70' To and include 80'	
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁶ - Recreational Vehicles and Buses - Commercial Vehicles	((11.70)) <u>12.20</u>	((11.70)) <u>12.20</u>	((17.90)) <u>18.60</u>	((24.15)) <u>25.00</u>	((30.35)) <u>31.40</u>	((36.60)) <u>37.80</u>	((42.80)) <u>44.20</u>	0.65
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴ - Recreational Vehicles and Buses - Commercial Vehicles	((11.70)) <u>12.20</u>	((30.35)) <u>31.40</u>	((42.80)) <u>44.20</u>	((55.25)) <u>57.00</u>	((67.70)) <u>69.80</u>	((80.15)) <u>82.60</u>	((92.60)) <u>95.40</u>	((1.25)) <u>1.30</u>
	((81.55)) <u>83.65</u>	((81.55)) <u>83.65</u>	((108.70)) <u>111.50</u>	((135.90)) <u>139.40</u>	((163.05)) <u>167.25</u>	((190.29)) <u>195.15</u>	((217.40)) <u>223.00</u>	((2.75)) <u>2.80</u>
	((81.55)) <u>83.65</u>	((163.05)) <u>167.25</u>	((217.40)) <u>223.00</u>	((271.75)) <u>278.75</u>	((326.10)) <u>334.50</u>	((380.45)) <u>390.25</u>	((434.80)) <u>446.00</u>	((5.45)) <u>5.60</u>

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles 20-30 feet in length and over 7'6" in height shall be charged the 20-30 foot length and under 7'6" in height fare for vehicles equipped with wheelchair lift or other mechanism designed to accommodate the person with the disability.

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid for a 24-hour period and is priced as follows: May 1, ~~((2006))~~ 2007 - April 30, ~~((2007))~~ 2008, ~~((548.25))~~ \$56.50 base season, ~~((665.25))~~ \$76.25 peak season.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁵RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a participation fee (\$200 for summer schedule season, \$100 for each of the other schedule seasons) will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge (~~((of 25%))~~) shall apply to all oversize vehicles (~~((, except for Anacortes to Lopez, Shaw, Orcas, and Friday Harbor))~~). The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season

under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. ~~((A 35% surcharge will apply to oversized vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.))~~

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL - Effective June 1, 2005, through fall of 2005, oversize vehicles making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. With the implementation of EFS in spring 2006, WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

AMENDATORY SECTION (Amending WSR 06-08-036, filed 3/29/06, effective 5/1/06)

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a

charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ((2005)) 2006, through June 30, ((2006)) 2007:

Vessel Class	Deck Crew On Overtime	Deck Crew On Straight Time
Jumbo Mark II	\$ ((1,388.00)) <u>1,559.00</u>	\$ ((1,207.00)) <u>1,384.00</u>
Jumbo	((1,346.00)) <u>1,517.00</u>	((1,178.00)) <u>1,353.00</u>
Super	((1,278.00)) <u>1,428.00</u>	((1,117.00)) <u>1,274.00</u>
Evergreen	((903.00)) <u>1,027.00</u>	((769.00)) <u>884.00</u>
Issaquah	((977.00)) <u>1,073.00</u>	((843.00)) <u>943.00</u>
Steel	((752.00)) <u>818.00</u>	((645.00)) <u>711.00</u>
Rhododendron	((688.00)) <u>718.00</u>	((581.00)) <u>612.00</u>
Hiyu	((659.00)) <u>508.00</u>	((552.00)) <u>447.00</u>

The rate for an individual charter will be calculated by:

- (1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;
- (2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and
- (3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

WSR 07-08-070
PERMANENT RULES
DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)
 [Filed March 30, 2007, 8:00 a.m., effective April 30, 2007]

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

Purpose: Adopting new WAC 246-853-085 Approved colleges and schools of osteopathic medicine and surgery, the rule requires schools and colleges of osteopathic medicine to be accredited by the American Osteopathic Association Commission on Osteopathic College Accreditation. The rule will establish enforceable standards and criteria for the board to approve a college or school.

Statutory Authority for Adoption: RCW 18.57.005, 18.57.020.

Other Authority: Chapter 18.57 RCW.

Adopted under notice filed as WSR 06-19-107 on September 20, 2006.

A final cost-benefit analysis is available by contacting Arlene Robertson, Program Manager, Department of Health, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

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

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

Date Adopted: November 17, 2006.

Daniel Dugaw, DO
Board Chair

NEW SECTION

WAC 246-853-085 Approved colleges and schools of osteopathic medicine and surgery. For the purposes of meeting the qualifications under RCW 18.57.020, the board approves those colleges or schools of osteopathic medicine accredited by the American Osteopathic Association Commission on Osteopathic College Accreditation.

WSR 07-08-079
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed April 2, 2007, 11:16 a.m., effective May 3, 2007]

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Because the proposal relates to raising the ceiling on current mandatory assessments, after public hearing the proposal went to a referendum vote of affected parties. The outcome of the referendum vote favored the raising of the ceiling on the assessments for wineries and grape growers.

Purpose: The Washington wine commission petitioned the Washington state department of agriculture to proceed with a proposal to increase the ceiling, or top range, of the winery and grape grower mandatory assessment rate. Subsequently, a public hearing and referendum were conducted according to statutory authority.

Citation of Existing Rules Affected by this Order:
Amending WAC 16-575-015.

Statutory Authority for Adoption: RCW 15.88.110 and 66.24.215.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-04-073 on February 2, 2007.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: April 2, 2007.

Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 99-12-104, filed 6/2/99, effective 7/3/99)

WAC 16-575-015 Rate of assessment—Method of adjustment—Notice. (1) Beginning on July 1, (~~(1999)~~) 2007, the assessment rate for vinifera grapes grown in this state shall not be less than three dollars per ton nor more than (~~(six)~~) twelve dollars per ton. The assessment rate for wine producers shall not be less than \$0.02 per gallon nor more than ~~\$(0.04)~~ 0.08 per gallon. The Washington wine commission may adjust the assessment amount levied on wine producers and grape growers as needed to fund necessary commission activities. Provided, that any adjustment in the assessment rate by the commission be levied in an equal and proportional manner upon both the wine producers and grape growers. In determining whether to adjust the assessment amount the commission shall consider the following factors:

(a) The commission's budgetary needs, including but not limited to a qualitative and quantitative review of programs carried out in the preceding year by the commission. This review should consider whether the program met its goals, benchmarks and objectives and whether the program constitutes the best use of the wine commission's finite resources;

(b) Projected grape production;

(c) Changes in administrative costs;

(d) Changes in the industry outside the control of the wine commission.

(2) The commission shall provide grape growers and wine producers notice of changes in assessment rates in a timely and reasonable manner and in no instance shall the notice be less than thirty days from the date the assessment is due.

WSR 07-08-088
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 3, 2007, 9:14 a.m., effective May 23, 2007]

Effective Date of Rule: May 23, 2007.

Purpose: The changes will amend the below mentioned WACs to make the changes identified in this section. The federal Centers of Medicare and Medicaid (CMS) is changing the title designations of two of their billing forms used by providers. The purpose of this rule making is to coordinate and reflect these changes in our rules. The department also will update out-dated mailing addresses, contact information and reference materials in our rules.

Citation of Existing Rules Affected by this Order: Amending industrial insurance, WAC 296-20-010 General information, 296-20-125 Billing procedures, 296-23A-0160 How must hospitals submit charges for ambulance and professional services?, 296-23A-0230 How does the department or self-insurer pay out-of-state hospitals for hospital services?, and 296-31-080 How do providers bill for services?

Statutory Authority for Adoption: RCW 51.04.020, 51.36.080, 7.68.030, 7.68.080.

Adopted under notice filed as WSR 07-01-077 on December 19, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

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

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

Date Adopted: April 3, 2007.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 05-09-063, filed 4/19/05, effective 7/1/05)

WAC 296-20-010 General information. (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance

notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Health Services Analysis
Interested Person's Mailing List for the Fee Schedules
P.O. Box 44322
Olympia, WA 98504-4322

As an alternative, interested persons may subscribe to the L&I medical provider news listserv. To subscribe, go to the department's web site at www.lni.wa.gov and click on the link "Provider billing & payment." Look for the icon that says "Get E-mail Updates" and click on it.

The department or self-insurer will require the current version of the federal Health Care Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents
United States Government Printing Office
Washington, DC 20402
(202) 783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association
Chicago, Illinois 60601
(800) 621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for making conversion factor cost of living adjustments is listed in WAC 296-20-132. The conversion factors are listed in WAC 296-20-135.

(5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

(8) Except as provided in WAC 296-20-055 (Limitation of treatment and temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(9) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send all provider bills (~~by type (UB-92))~~ and adjustments to: Department of Labor and Industries, P.O. Box ~~((44266))~~ 44269, Olympia, Washington ~~((98504-4266))~~ 98504-4269.

~~((Adjustments, Home Nursing, Retraining, Job Modification, and Miscellaneous to: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 98504-4267.~~

~~Pharmacy to: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 98504-4268.~~

~~HCFA-1500 to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.)~~

State fund claims have six digit numbers or a letter and five digits preceded by a letter other than "S," "T," or "W."

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V" or five digit numbers preceded by "VA," "VB," "VC," "VH," "VJ," or "VK."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers or a letter and five digits preceded by an "S," "T," or "W."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-125 Billing procedures. All services rendered must be in accordance with the medical aid rules, fee schedules, and department policy. The department or self-insurer may reject bills for services rendered in violation of these rules. Workers may not be billed for services rendered in violation of these rules.

(1) Bills must be itemized on department or self-insurer forms or other forms which have been approved by the department or self-insurer. Bills may also be transmitted electronically using department file format specifications. Providers using any of the electronic transfer options must follow department instructions for electronic billing. Physicians, osteopaths, advanced registered nurse practitioners, chiropractors, naturopaths, podiatrists, psychologists, and registered physical therapists use the current national standard ((~~HCFA-1500~~)) Health Insurance Claim Form (as defined by the National Uniform Claim Committee) with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form. Hospitals use the ((~~UB-92~~)) current National Uniform Billing Form (as defined by the National Uniform Billing Committee) for institution services and the current national standard ((~~HCFA-1500~~)) Health Insurance Claim Form (as defined by the National Uniform Claim Committee) with the bar code placed 2/10 of an inch from the top and 1 1/2 inches from the left side of the form for professional services. Hospitals should refer to chapter 296-23A WAC for billing rules pertaining to institution, or facilities, charges. Pharmacies use the department's statement for pharmacy services. Dentists, equipment suppliers, transportation services, vocational services, and massage therapists use the department's statement for miscellaneous services. When billing the department for home health services, providers should use the "statement for home nursing services."

Providers may obtain billing forms from the department's local service locations.

(2) Bills must specify the date and type of service, the appropriate procedure code, the condition treated, and the charges for each service.

(3) Bills submitted to the department must be completed to include the following:

- (a) Worker's name and address;
- (b) Worker's claim number;
- (c) Date of injury;
- (d) Referring doctor's name and L & I provider account number;
- (e) Area of body treated, including ICD-9-CM code(s), identification of right or left, as appropriate;
- (f) Dates of service;
- (g) Place of service;
- (h) Type of service;
- (i) Appropriate procedure code, hospital revenue code, or national drug code;
- (j) Description of service;
- (k) Charge;
- (l) Units of service;
- (m) Tooth number(s);
- (n) Total bill charge;
- (o) The name and address of the practitioner rendering the services and the provider account number assigned by the department;

(p) Date of billing;

(q) Submission of supporting documentation required under subsection (6) of this section.

(4) Responsibility for the completeness and accuracy of the description of services and charges billed rests with the practitioner rendering the service, regardless of who actually completes the bill form;

(5) Vendors are urged to bill on a monthly basis. Bills must be received within one year of the date of service to be considered for payment.

(6) The following supporting documentation is required when billing for services:

- (a) Laboratory and pathology reports;
- (b) X-ray findings;
- (c) Operative reports;
- (d) Office notes;
- (e) Consultation reports;
- (f) Special diagnostic study reports;
- (g) For BR procedures - see chapter 296-20 WAC for requirements; and
- (h) Special or closing exam reports.

(7) The claim number must be placed on each bill and on each page of reports and other correspondence in the upper right-hand corner.

(8) The following considerations apply to rebills.

(a) If you do not receive payment or notification from the department within one hundred twenty days, services may be rebilled.

(b) Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed. In these instances, the rebills must be received within one year of the date the final order is issued which subsequently reopens or allows the claim.

(c) Rebills should be identical to the original bill: Same charges, codes, and billing date.

(d) In cases where vendors rebill, please indicate "REBILL" on the bill.

(9) The department or self-insurer will adjust payment of charges when appropriate. The department or self-insurer must provide the health care provider or supplier with a written explanation as to why a billing or line item of a bill was adjusted at the time the adjustment is made. A written explanation is not required if the adjustment was made solely to conform with the maximum allowable fees as set by the department. Any inquiries regarding adjustment of charges must be received in the required format within ninety days from the date of payment to be considered. Refer to the medical aid rules for additional information.

AMENDATORY SECTION (Amending WSR 97-06-066, filed 2/28/97, effective 4/1/97)

WAC 296-23A-0160 How must hospitals submit charges for ambulance and professional services? Hospitals must submit charges for ambulance services and professional services provided by hospital staff physicians on the current Health Insurance Claim Form (as defined by the

National Uniform Claim Committee), ((~~HCFA-1500~~)) using the provider account number(s) assigned by the department for these services. Hospitals using any of the electronic transfer options must follow department instructions for electronic billing.

AMENDATORY SECTION (Amending WSR 00-09-078, filed 4/18/00, effective 7/1/00)

WAC 296-23A-0230 How does the department or self-insurer pay out-of-state hospitals for hospital services? The department or self-insurer pays out-of-state hospitals for hospital services using a percent of allowed charges (POAC) factor or department fee schedule. The POAC factor may differ for services performed in inpatient and outpatient settings. Payment rates to hospitals located outside of Washington state are calculated by multiplying the out-of-state percent of allowed charges factor (POAC) by the allowed charges.

Amount paid = (out-of-state POAC Factor) X (Allowed Charges).

Out-of-state hospital providers should bill and the department or self-insurer will pay out-of-state hospitals services according to the following table:

<i>Hospital Professional and Ambulance Services</i>	<i>Hospital Outpatient Services</i>	<i>Hospital Inpatient Services</i>
Professional and ambulance services should be billed with CPT and HCPCS codes on ((HCFA-1500)) <u>current Health Insurance Claim Forms (as defined by the National Uniform Claim Committee)</u> under separate provider numbers. These services will be paid using the fee schedule rates and payment policies stated in the <i>Washington Medical Aid Rules and Fee Schedules</i> .	All hospital outpatient services should be billed on UB forms under the hospital provider number with revenue codes. These services will be paid at the out-of-state percent of allowed charges (POAC) factor as stated in the <i>Washington Medical Aid Rules and Fee Schedules</i> .	All hospital inpatient services should be billed on UB forms under the hospital provider number using revenue codes. These services will be paid at the out-of-state percent of allowed charges (POAC) factor as stated in the <i>Washington Medical Aid Rules and Fee Schedules</i> .
Military and veteran's administration professional and ambulance services should be billed on ((HCFA-1500)) <u>current Health Insurance Claim Forms (as defined by the National Uniform Claim Committee)</u> and will be paid at 100% of allowed charges.	Military, veteran's administration, health maintenance organization, children's, and state-run psychiatric hospitals will be paid at 100% of allowed charges for outpatient hospital services.	Military, veteran's administration, health maintenance organization, children's, and state-run psychiatric hospitals will be paid at 100% of allowed charges for inpatient hospital services.

AMENDATORY SECTION (Amending WSR 99-07-004, filed 3/4/99, effective 4/4/99)

WAC 296-31-080 How do providers bill for services?

(1) Neither the department nor the claimant is required to pay for provider services which violate the mental health treatment rules, fee schedule or department policy.

(2) All fees listed are the maximum fees allowable. Providers must bill their usual and customary fee for each service. If this is less than our fee schedule rate, you must bill us at the lesser rate. The department will pay the lesser of the billed charge or the fee schedule's maximum allowable.

The provider is prohibited from charging the claimant for any difference between the provider's charge and our allowable amount.

(3) Regardless of who completes the bill form, you are responsible for the completeness and accuracy of the description of services and of the charges billed.

(4) All bills submitted to the department must:

(a) Be itemized on forms approved by us.

For example: Physicians, psychologists, advanced registered nurse practitioners and master level mental health counselors may use our form or the ((~~national standard HCFA-1500~~)) current Health Insurance Claim Form (as defined by the National Uniform Claim Committee). Hospitals use the ((~~UB-92~~)) current National Uniform Billing Form (as defined by the National Uniform Billing Committee) for institution services and the ((~~national standard HCFA-1500~~)) current

Health Insurance Claim Form (as defined by the National Uniform Claim Committee) for professional services.

(b) Refer to the crime victims compensation program mental health ~~((treatment rules and fees booklet for procedure code listings and))~~ billing instructions for detailed billing ~~((instructions))~~ information. Billings must be submitted in accordance with ~~((this publication))~~ these instructions. Procedure codes and fees are available on the crime victims compensation web site or by contacting the crime victims program.

(5) The following supporting documentation must be maintained and, if applicable, submitted when billing for services:

- (a) Intake evaluation;
- (b) Progress reports;
- (c) Consultation reports;
- (d) Special or diagnostic study reports;
- (e) Independent assessment or closing exam reports;
- (f) BR (by report) describing why a service or procedure is too unusual, variable, or complex to be assigned a value unit;
- (g) The claimant's or patient's (if patient is other than claimant) private or public insurance information;

For example: When services provided are for survivors of homicide victims.

(6) The claim number must appear in the appropriate field on each bill form. Reports and other correspondence must have the claim number in the upper right hand corner of each page.

(7) You may rebill us if your bill is not reported on your remittance advice within sixty days. Unless the information on the original bill was incorrect, a rebill should be identical. Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed.

(8) We will adjust charges when appropriate. We must provide you with a written explanation as to why a billing was adjusted. A written explanation is not required if the adjustment was made solely to conform to our maximum allowable fees. Any inquiries regarding adjustment of charges must be received in the required format within ninety days from the date of payment.

WSR 07-08-089

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed April 3, 2007, 9:15 a.m., effective June 1, 2007]

Effective Date of Rule: June 1, 2007.

Purpose: Chapter 296-134 WAC, Family leave rules, the existing rules for the Family Leave Act under chapter 296-134 WAC are no longer relevant to the updated statute, chapter 49.78 RCW, and should be repealed in their present form. In 1997, the Family Leave Act was amended and the family leave rules were not updated to reflect the changes. In 2006, the Family Leave Act was again completely revised making the rules further outdated.

The department will keep chapter 296-134 WAC, since we will continue to develop rule language in response to the 2006 amendments to the Family Leave Act.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-134-001, 296-134-010, 296-134-030, 296-134-040, 296-134-050, 296-134-060, 296-134-070 and 296-134-090; and amending chapter 296-134 WAC.

Statutory Authority for Adoption: RCW 49.78.400.

Adopted under notice filed as WSR 07-03-159 on January 23, 2007.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 8.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 8.

Date Adopted: April 3, 2007.

Judy Schurke

Director

Chapter 296-134 WAC

~~((PARENTAL-))~~FAMILY(~~(())~~) LEAVE

Note: The contents of this chapter are no longer in effect. Policy development and rule making are underway to reflect the elements of the Family Leave Act that will be enforced by the department of labor and industries. Please refer to the L&I web page for on-going updates and current information. <http://www.lni.wa.gov/WorkplaceRights>.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-134-001	Declaration of purpose.
WAC 296-134-010	Definitions.
WAC 296-134-030	Entitlement to leave.
WAC 296-134-040	Notice.
WAC 296-134-050	Medical confirmation.
WAC 296-134-060	Leave from same employer.
WAC 296-134-070	Returning to employment.
WAC 296-134-090	Penalties.

WSR 07-08-109
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION

[Filed April 4, 2007, 9:28 a.m., effective May 5, 2007]

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

Purpose: To amend WAC 468-100-403 (1)(f) to reflect regulatory changes made by the Federal Highway Administration (FHWA) to the federal regulations in 49 C.F.R. Part 24 Section 24 that went into effect on February 3, 2005.

Citation of Existing Rules Affected by this Order: Amending WAC 468-100-403 (1)(f).

Statutory Authority for Adoption: Chapter 8.26 RCW.

Adopted under notice filed as WSR 06-23-046 on November 7, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: April 2, 2007.

John F. Conrad
Assistant Secretary

AMENDATORY SECTION (Amending WSR 06-02-068, filed 1/3/06, effective 2/3/06)

WAC 468-100-403 Additional rules governing replacement housing payments. (1) **Determining cost of comparable replacement dwelling:** The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined in WAC 468-100-002(6)).

(a) **Three-comparable method:** If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(b) **Major exterior attribute:** If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool or outbuildings), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(c) **Remainder offer:** If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a remnant of the displacement dwelling site or a buildable residential lot, the agency may offer to purchase the entire property. If such

an offer is made and the owner refuses to sell the remainder to the agency, the value attributable to that remainder, shall be added to the acquisition price paid for the displacement dwelling for purposes of computing the price differential.

(d) **Location:** To the extent feasible, comparable replacement dwellings shall be selected preferably from the neighborhood in which the displacement dwelling was located or, if not otherwise feasible, from nearby or similar neighborhoods where housing costs are generally the same as in the displacement neighborhood. Where that is not possible dwellings may be selected from neighborhoods where housing costs are the same or higher.

(e) **Multiple occupants of one displacement dwelling:** If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) **Deductions from relocation payments:** An agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. ~~((Similarly, where such a deduction would not prevent the displaced person from obtaining a comparable replacement dwelling as required by WAC 468-100-204, an agency may deduct from relocation payments any rent that the displaced person owes the agency.))~~ The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) **Mixed-use and multifamily properties:** If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a tract larger than a site that is typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(h) **Insurance proceeds:** To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see WAC 468-100-003.)

(2) **Inspection of replacement dwelling:** Before making a replacement housing payment or releasing a payment from escrow, the agency or its designated representative shall inspect the replacement dwelling and determine whether it is a DSS dwelling as defined in WAC 468-100-002(8).

(3) **Purchase of replacement dwelling:** A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(a) Purchases a dwelling; or

(b) Purchases and rehabilitates a substandard dwelling;

or

(c) Relocates a dwelling which the person owns or purchases; or

(d) Constructs a dwelling on a site the person owns or purchases; or

(e) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or

(f) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(4) **Occupancy requirements for displacement or replacement dwelling:** No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in this chapter for a reason beyond the person's control, including:

(a) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the funding agency; or

(b) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the agency.

(5) **Conversion of payment:** A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under WAC 468-100-402(2) is eligible to receive a payment under WAC 468-100-401 or 468-100-402(3) if the person meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under WAC 468-100-401 or 468-100-402(3).

(6) **Payment after death:** A replacement housing payment is personal to the displaced person and upon the person's death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(a) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(b) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a DSS replacement dwelling.

(c) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.