

WSR 07-09-033
PERMANENT RULES
GAMBLING COMMISSION

[Order 608—Filed April 10, 2007, 12:28 p.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques (rules simplification project). We anticipate the project will be completed and implemented January 1, 2008. The rules manual is being broken into sections and rewritten a section at a time. Any substantive changes made to current card room rules are identified below.

Overview of Card Game Rule Changes

The card game rules were changed as they underwent review during the rules simplification project. We had several goals during rules simplification: To clarify the language in each rule, to reduce the number of words in each rule, to add any rule interpretations that addressed ambiguities in the rules, and to align the rules with current enforcement and compliance. During the discussion period, after the rules were filed several rules were changed substantially and these rules have been removed from this packet and moved into an amended packet so that there was fair public notice of those changes. Rules pulled from this packet were: WAC 230-15-065 Enforcement of card game rules of play, 230-15-126 Cutting cards in center dealer-dealt games, 230-15-150 Selling and redeeming chips, 230-15-275 Surveillance requirements for Class F card games, 230-15-285 Camera and monitor requirements for closed circuit television systems, 230-15-320 Surveillance room requirements for house-banked card game licensees, 230-15-400 Accounting for player-supported jackpot funds, and 230-15-430 Internal control requirements.

GLOBAL RULE CHANGES

Directors have for a number of years delegated those decision-making duties to the deputy director, assistant directors, administrators, supervisors, special agents, and staff. In all of the following pre-1/1/2008, rules, the director or director's designee approves or takes an action: WAC 230-40-010 Rules of play in all card games, 230-40-050 Fees for non-house-banked card games—Assessment and collection—Maximum fees, 230-40-400 Hours for card games—Procedures for changing hours, 230-40-070 Licensee to furnish all cards, chips and other services, 230-40-505 Rules of play for social card games—Display—Availability for review, 230-40-600 Authorization procedures for player-supported jackpots, 230-40-801 Interruption of card games—Preoperational review and evaluation required—Procedures—House-banking, 230-40-805 Progressive jackpot prizes—Procedures—Restrictions—House-banking, 230-40-810 House-banked card games—Odds based wagers—Prizes—Restrictions—Procedures, 230-40-823 Financial audits and reviews required—House-banking, 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking, 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking, and 230-40-895 Key control—House-banking.

Director Day reevaluated the rules with director delegations and made policy decisions about which of them actually require the director to become involved and which the director chooses to delegate to commission staff. The following post-1/1/2008 rules have these delegations to commission staff introduced into them: WAC 230-15-030 Authorized nonhouse-banked card games, 230-15-035 Requirements for authorized card games, 230-15-040 Authorizing new games or changing game rules, 230-15-045 Withdrawing approved card game, 230-15-075 Card game fees for nonhouse-banked card games, 230-15-100 Providing cards and chips in card rooms, 230-15-025 Hours of play, 230-15-065 Enforcement of card game rules of play, 230-15-485 Standards for electronic facsimiles of cards, 230-15-365 Getting approval for player-supported jackpots, 230-15-545 Interruption of card games for more than seven days, 230-15-710 Permanently removing a progressive jackpot or a portion of a progressive jackpot from play, 230-15-490 Limiting payouts for odds-based wagers, 230-15-740 Preparing required financial statements, 230-15-510 Transferring chips and coin to the gambling tables, 230-15-530 Completing the credit process, and 230-15-635 Electronic key control systems.

When a business is licensed, the business is given a packet of forms which it uses to administer the card room. Some of these forms must be used; others are model forms which the licensee may convert to their own use. Much of the information in the "laundry lists" in the current rules is repeated verbatim on the application and administration forms. Repeating the information in the rule is unnecessary, so that the post-1/1/2008 rules replace these "laundry lists" with the phrase, "in the format we require." Applicants and licensees can then simply fill out the forms we give them and be in compliance. Pre-1/1/2008 Rule: WAC 230-40-010 Rules of play for all card games.

Pre-1/1/2008 Rules: WAC 230-40-052 Daily records—Card games, 230-08-160 Semiannual activity reports by operators of social and public card rooms, 230-40-800 Operating rules for house-banked card games, 230-40-830 Cashier's cage—Requirements—House-banking, 230-40-845 Procedures for exchange of checks submitted by gaming patrons at cashier's cage, 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking, and 230-40-875 Closing gaming tables—House-banking.

Post-1/1/2008 Rules: WAC 230-15-040 Authorizing new games or changing game rules, 230-15-155 NSF checks, 230-15-190 Preparing card game records, 230-15-200 Reporting card game activity semiannually, 230-15-210 Entry fees and buy-ins for card tournaments, 230-15-250 Recordkeeping for card tournaments, 230-15-325 Surveillance room sign-in log, 230-15-330 Keeping a surveillance activities log, 230-15-405 Paying out prizes on a player-supported jackpot, 230-15-425 Internal controls, 230-15-495 Opening tables, 230-15-515 Requirements for request for fill/credit slips, 230-15-520 Requirements for fill/credit slips, 230-15-530 Completing the credit process, 230-15-535 Closing tables, 230-15-565 Access and entrance to cashier's cage, 230-15-605 Requirements for count rooms, 230-15-645 Keeping a key control log, 230-15-725 Keeping all card game records, and 230-15-745 Signature cards.

SUBSTANTIVE RULE CHANGES

Post-1/1/2008 Rule, WAC 230-15-015 "Charitable and nonprofit social card room" and "guest" defined. The pre-1/1/2008 rule, WAC 230-02-430 Guest, defines "guest" by referring to the liquor control board's authorized guest card. We changed this rule to align it with our definition of "full and regular membership" in a charitable or nonprofit organization which is set out in the post-1/1/2008 licensing rules at WAC 230-03-140. We removed that reference to guest and added our own definition because the liquor control board no longer issues guest cards.

Post-1/1/2008 Rule, WAC 230-15-050 Minimum cash on hand requirements. We relocated the pre-1/1/2008 rule, WAC 230-40-833 Cashier's bank and minimum bankroll—House-banking, to the "general card room rules" section of the post-1/1/2008 rules, instead of having it only in the house-banked card room rules section. We made this change because the minimum cash on hand requirements is a requirement for all card game licensees, not just house-banked licensees. Licensees are already complying with the requirements for cash on hand. This change would make that compliance mandatory and align the rules with the actual practice of agents and licensees.

Post-1/1/2008 Rule, WAC 230-15-080 Authorized fees and authorized methods of collection. When WAC 230-40-050 Fees for nonhouse-banked card games—Assessment and collection—Maximum fees, was passed in 2000, we tried to leave the regulation broad so that we could allow for possible changes in method. Since then, no one has submitted a request for another method of collection. If someone did wish to introduce a new method of collection, going through the rules change process would be a better method to evaluate a new collection method.

We also took out a sentence that stated that the director could authorize alternative methods of collection. We have not authorized an alternative method of collection beyond a period of time, per hand, or rake fee.

Post-1/1/2008 Rule, WAC 230-15-100 Providing cards and chips in card rooms. We included Class B and Class C charitable or nonprofit card game licensees in this rule because these classes were inadvertently left out of the pre-1/1/2008 rule, WAC 230-40-070 Licensee to furnish all cards, chips and other services. All card game licensees, except for Class D, must provide cards and chips and may not charge players for these.

Post-1/1/2008 Rule, WAC 230-15-105 Only authorized cards or chips may be used. We removed "that business day" from the text because there's no practical way to enforce the rule unless we search everyone leaving the business premises for chips. The pre-1/1/2008 rule was WAC 230-40-080 Person not to bring their own cards or chips.

Post-1/1/2008 Rule, WAC 230-15-150 Selling and redeeming chips. We included subsection (6) stating that licensees must "count each transaction for the purchase of chips as a separate transaction; for example, do not allow a player's check to be altered after it is exchanged for chips." We wanted to emphasize that checks, once received by the cashier, cannot be altered. Players must write a second check if they want to buy more chips later, instead of altering a check already received at the cashier's cage. We are clarifying the

pre-1/1/2008 rule, WAC 230-40-070 Licensee to furnish all cards, chips and other services, language about separate transactions for each purchase.

In the amended package, we also rewrote a portion of this rule to clarify the amount of time licensees had to make their deposits at the bank. Our first rewrite of the rule mistakenly made their time limit shorter and we amended the rule to make sure that the requirement was unchanged from the pre-1/1/2008 rule, WAC 230-40-070 Licensee to furnish all cards, chips and other services.

Post-1/1/2008 Rule, WAC 230-15-170 Photos of card room employees required. We removed the requirement from pre-1/1/2008, WAC 230-02-415 Card room employee defined, that photos of card room employees be posted in the card room. When the house-banked card game license was introduced in 2000, we stopped enforcing the requirement that employers post card room employee photos because of safety and privacy concerns of card room employee licensees. It is also impractical to require licensees to post the photos of eighty to ninety employees. Licensees must, however, have photos of the employees on site and available for inspection.

Post-1/1/2008 Rule, WAC 230-15-175 Reporting card room employees no longer working. We changed the amount of time within which we must receive notice of a card room employee terminating employment. The pre-1/1/2008 rule, WAC 230-04-142 Notification to the commission upon beginning, terminating, or changing employment—Public card room employees, required [that] licensees report to us "not later than 5 p.m. on the seventh day" after the card room employee terminates employment. We have changed that to "within ten days of the employee terminating" in the post-1/1/2008 rule.

We have attempted in other rules to standardize the timing of reporting by requiring notice within thirty days, or when thirty days is not reasonable, ten days. In this case, thirty days is not a reasonable amount of time because field staff needs to know who is working in a particular location at a given time.

Post-1/1/2008 Rule, WAC 230-15-185 Preventing cheating in card games. In the pre-1/1/2008 rule, WAC 230-40-250 Licensee to prevent cheating in card games, we required licensees to notify local law enforcement of cheating immediately. In the new rule, we have added that licensees must also report cheating to us within three days. This change matches the current field requirements.

Post-1/1/2008 Rule, WAC 230-15-190 Preparing card room records. We changed the requirement in pre-1/1/2008 rule, WAC 230-08-010 Monthly records, for when monthly records must be printed or backed up in a permanent form from "on a periodic basis" to a less ambiguous length of time: Once per month.

Post-1/1/2008 Rule, WAC 230-15-225 Tournament rules and prizes. Licensees routinely use a sign up log to determine which players will participate in a tournament. Licensees often have more players signed up than they have seats in the tournament. We introduced the rule interpretation for pre-1/1/2008 rule, WAC 230-40-055 Card tournaments for fee and prizes—Reporting requirements, "posting entry fee requirements" which states that licensees may use a

drawing to determine who will be allowed to play. However, after the tournament has begun, licensees may not use a drawing to fill an extra seat.

Post-1/1/2008 Rule, WAC 230-15-235 Exclusive tournament entry as customer appreciation. We added a long-standing rule interpretation on pre-1/1/2008 rule, WAC 230-40-055 Card tournaments for fee and prizes—Reporting requirements, that stated that owners of card rooms may hold tournaments that restrict entry to certain groups as long as they post all the restrictions on entry in the tournament rules. Addressing rule interpretations was a goal of the rules simplification project. Our goal is to replace all rule interpretations with clearer WACs.

Post-1/1/2008 Rule, WAC 230-15-300 Using multiplex and quad recording devices in required surveillance. In October 2004, pre-1/1/2008 rule, WAC 230-40-625 Closed circuit television system—Class F card rooms, was changed erroneously. WAC 230-40-625 states that multiplexing and quad recording devices may not be used in required surveillance, when in actuality, they may be used on certain required areas. We used this opportunity to correct the error.

Post-1/1/2008 Rule, WAC 230-15-325 Surveillance room sign-in log. We have combined the surveillance requirements for both Class F and house-banked licensees into one section and merged most of the rules. This particular rule change requires that licensees keep a surveillance room sign-in log to document anyone entering or leaving the surveillance room. The pre-1/1/2008 rules, WAC 230-40-625 Closed circuit television system—Class F card rooms and 230-40-825 Closed circuit television system—House-banking, required an employee sign-in log. Informally, a visitor's sign-in log was used in the surveillance room as well. We are combining both logs to improve consistency and accuracy of the log.

Post-1/1/2008 Rule, WAC 230-15-335 Internal controls. Class F card game licensees are not required to have a separate security department, so we removed that requirement from pre-1/1/2008 rule, WAC 230-40-615 Nonhouse-banked card games—Administrative and accounting control structure—Organization.

Further, surveillance requirements for Class F licensees are covered in other rules. Repeating the requirements stated in pre-1/1/2008 rule, WAC 230-40-615 Nonhouse-banked card games—Administrative and accounting control structure—Organization is redundant, so it was removed in post-1/1/2008 rule, WAC 230-15-335 Internal controls.

We added the requirement for Class F licensees and card room employees to follow internal controls in post-1/1/2008 rule, WAC 230-15-335 Internal controls, to make this a consistently enforced requirement for all card game licensees.

Post-1/1/2008 Rule, WAC 230-15-385 Collecting funds for a player-supported jackpot. We changed the final section of the pre-1/1/2008 rule, WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval, which said, "This assessment shall be separately collected using the rake method." In the post-1/1/2008 rule, it says, "Licensees must use either the chip rack or drop box method to collect these funds." Rake is a type of fee; chip rack or drop box are the collection methods. We are attempting to

clarify the terms we use in the card game rules and this change uses those rules in a more consistent manner.

Post-1/1/2008 Rule, WAC 230-15-405 Paying out prizes on a player-supported jackpot. We have changed the pre-1/1/2008 rule, WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval, which stated: "The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, *unless released* by a commission agent" to "Licensees must keep the winning hand and remaining deck on the business premises for seven gambling days." Agents have never released a licensee from keeping the winning hand and deck, so we removed the requirement.

Post-1/1/2008 Rule, WAC 230-15-410 Owners, prize fund custodians, and card room employees participating in player-supported jackpots. In this rule, we add the phrase "prize fund custodian" to subsections (2) and (3) of the text. Because of the important restrictions on owners and card room employees participating in player-supported jackpot games set out in this rule, we're certain that pre-1/1/2008 rule, WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval, meant to restrict their participation and we made the change to make that clear.

Post-1/1/2008 Rule, WAC 230-15-415 Removing a player-supported jackpot from play. Previously, we had no instructions about what licensees must do if a taxing authority seized all or part of a player-supported jackpot to cover unpaid gambling or other taxes. Adding this brings the rule in line with a rule interpretation of pre-1/1/2008 rule, WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval, about tax seizure.

Post-1/1/2008 Rule, WAC 230-15-420 Resolving disputes over player-supported jackpots. Most times, disputes over player-supported jackpots are resolved without the need for the director to be involved. With the change made to pre-1/1/2008 rule, WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval, we give the director the discretion to decide when he or she needs to become involved.

Post-1/1/2008 Rule, WAC 230-15-425 Internal controls. Several of our rules, including pre-1/1/2008 rule, WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking, require that licensees make internal controls and other records available to us or to other law enforcement agencies at any time they are requested, but we never had a requirement that the licensee have a copy of the internal controls on site. The addition of this requirement for internal controls will prevent many misunderstandings about internal controls, both between agents and licensees and between licensees and their employees. We also require card room employees to know the internal controls concerning their specific functions. If the licensee has to have a copy of the internal controls on site, employees can easily see what their role in maintaining the internal controls is. We also added that licensees must follow all the restrictions contained in the Gambling Act, chapter 9.46 RCW. Again, the requirement was implied before in pre-1/1/2008 rule, WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking, but not stated outright. These

changes reinforce the connection we hope to make with the statute and the WAC rules.

Post-1/1/2008 Rule, WAC 230-15-440 Modifying internal controls and changing card games offered. Pre-1/1/2008 rule, WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking, requires that card game licensees submit a changed version of their complete internal controls if they wish to change a game being offered in their card room. Special agents review the entire internal controls and go out to the card room to do an inspection before allowing the change to occur.

We rewrote pre-1/1/2008 rule, WAC 230-40-815 Administrative and accounting control structure—Organization—House-banking, to include an existing rule interpretation that allowed licensees to submit a changed version of their internal controls and receive a verbal approval for the change from their agent while continuing to operate. Special agents then will complete a review of the new game on their next visit to the card room.

Post-1/1/2008 Rule, WAC 230-15-510 Transferring chips and coin to the gambling tables. We added the word "coin" into subsections (2) and (3) of this rule. The word was inadvertently left out of pre-1/1/2008 rule, WAC 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking.

Post-1/1/2008 Rule, WAC 230-15-520 Requirements for fill/credit slips. Licensees asked us to review the pre-1/1/2008 rules, WAC 230-40-865 Distributing chips and coins to tables—Requests and fills—House-banking and 230-40-870 Removing chips and coins from tables—Requests and credits—House-banking, restrictions on when accounting had to perform the comparisons and reviews of the count. The accounting department at most businesses works a regular 8:00-5:00 day, but licensees were required to have one accounting person come in over the weekend to check the hard copies of credit and fill slips. We felt that as long as the review was done as soon as accounting returned to work the next business week, we could allow them to postpone it.

Post-1/1/2008 Rule, WAC 230-15-545 Interruption of card games for more than seven days. The pre-1/1/2008 rule, WAC 230-40-801 Interruption of card games—Preoperational review and evaluation required—Procedures—House-banking, requires us to perform a preoperational review and evaluation (PORE) every time a licensee is closed for more than seven days. Current enforcement practice, however, allows agents some discretion about whether a PORE is necessary. For instance, if a licensee decides to close for a week or two during a slow period in order to perform some remodeling, agents do not need to perform a PORE before that licensee reopens. We changed this rule to remove the imperative for staff to perform a PORE any time licensees are closed for seven days or more.

Post-1/1/2008 Rule, WAC 230-15-570 Cashier's cage bank requirements. Licensees asked us to review the pre-1/1/2008 rule, WAC 230-40-833 Cashier's bank and minimum bankroll—House-banking, restrictions on who would review the imprest bank because the accounting supervisor is not always present to perform the review. Accounting department personnel, however, are the usual designees to

perform the review. We changed the rule to match current practice in the card rooms.

Post-1/1/2008 Rule, WAC 230-15-600 Storing drop boxes on closed gambling tables. We changed the word "taped" to "recorded" in pre-1/1/2008 rule, WAC 230-40-840 Drop boxes—House-banking—Drop box collection method, because many licensees now use digital recording devices which use a hard-drive or other media for surveillance video storage, not tapes. "Taped" implies that the licensee must be using analog recording devices. "Recorded" allows for both analog and digital recording.

Post-1/1/2008 Rule, WAC 230-15-610 Preparing to conduct a count. We have rewritten pre-1/1/2008 rule, WAC 230-40-885 Count procedures—House-banking, to clarify and strengthen the rule by adding in the requirements about which employees in the card room can serve on a count team.

Post-1/1/2008 Rule, WAC 230-15-620 Concluding the count. The pre-1/1/2008 rule, WAC 230-40-885 Count procedures—House-banking, stated that the count team must have the count verified by a cashier. We propose changing the rule to match current practice in the card rooms by changing the word "cashier" to "verifier." Many times, someone from the accounting department whose primary duties are not those of a cashier verifies the count.

Post-1/1/2008 Rule, WAC 230-15-625 Accounting department review of the count. Licensees asked us to review the pre-1/1/2008 rule, WAC 230-40-885 Count procedures—House-banking, restrictions on when accounting had to perform the comparisons and reviews of the count. The accounting department at most businesses works a regular 8:00-5:00 day, but licensees were required to have one accounting person come in over the weekend to check the hard copies of the count. We felt that as long as the review was done as soon as accounting returned to work the next business week, we could allow them to postpone it.

Post-1/1/2008 Rule, WAC 230-15-640 Keeping individual key control boxes for departments. The pre-1/1/2008 rule, WAC 230-40-895 Key control—House-banking, has become outdated because of changes in technology. We have rewritten this rule to include combinations to combination lock boxes. We are attempting to address the several different types of lockboxes licensees have available to them.

Post-1/1/2008 Rule, WAC 230-15-655 Keys for the security department. At licensees' suggestion, we have rewritten pre-1/1/2008 rule, WAC 230-40-895 Key control—House-banking, to include the word "canceled" in describing decks of cards stored by the security department. "Canceled" is the word that licensees use when discussing decks of cards that are taken out of play for various reasons and will be marked, drilled, or otherwise defaced so that they cannot be reintroduced into play.

Post-1/1/2008 Rule, WAC 230-15-665 Keys for the surveillance department. At licensees' suggestion, we have rewritten pre-1/1/2008 rule, WAC 230-40-895 Key control—House-banking, to include the words "cards, or other items of evidentiary value" in the description of what items are held in the storage lockers or cabinets of the surveillance department. This change makes clear that items of evidentiary value remain with the surveillance department until agents are able

to recover them. This change will improve the "chain of evidence" when we receive tapes from licensees.

Post-1/1/2008 Rule, WAC 230-15-670 Keeping a master key control box. We have rewritten pre-1/1/2008 rule, WAC 230-40-895 Key control—House-banking, adding the phrases "general manager" and "other authorized person(s)" to the requirements regarding access to the master key control box. This change allows persons other than the direct owner access to the keys during the everyday operation of the card room. This change is made to increase consistency in our use of terms.

We have also changed subsection (2) to state, "Keys in this key control box must include:" This change of "must" to "may" in second section resolves a conflict between subsections (2)(e) and (4)(c) in the old rule.

Post-1/1/2008 Rule, WAC 230-15-710 Permanently removing a progressive jackpot or a portion of a progressive jackpot from play. In working with pre-1/1/2008 rule, WAC 230-40-805 Progressive jackpot prizes—Procedures—Restrictions—House-banking, we made three changes:

- We combined the concepts of removal and discontinuance in the original rule, using the term "removal" throughout the rule. The original rule used both "discontinuance" and "removal" which was confusing.
- We included a rule interpretation of the WAC which states that the disbursement of a progressive jackpot by tournament is not intended to be a money-making proposition for the licensee; therefore, the tournament must be free of charge.
- The rule interpretation also stated that the prize may be offered on a different house-banked game with a progressive jackpot, but licensees requested that we not restrict the game to one that has a progressive jackpot. We saw no regulatory concerns with making this change, so the new rule states that the prize may be offered on any other house-banked card game.

Post-1/1/2008 Rule, WAC 230-15-715 Tax authorities seizing all, or a portion, of a progressive jackpot. Previously in pre-1/1/2008 rule, WAC 230-40-805 Progressive jackpot prizes—Procedures—Restrictions—House-banking, we had no instructions about what licensees must do if a taxing authority seized all or part of a player-supported jackpot to cover unpaid gambling or other taxes. We added an existing rule interpretation to bring the post-1/1/2008 rule, WAC 230-15-715 Tax authorities seizing all, or a portion, of a progressive jackpot, in line with current practice about tax seizure.

Post-1/1/2008 Rule, WAC 230-15-720 Deposit and reconciliation requirements for progressive jackpot prizes. We added a definition of reconcile to post-1/1/2008 rule, WAC 230-15-720 Deposit and reconciliation requirements for progressive jackpot prizes, to the make it clear to licensees what we meant by that term in pre-1/1/2008 rule, WAC 230-40-808 Deposit requirements for prizes—House-banking.

Post-1/1/2008 Rule, WAC 230-15-740 Preparing required financial statements. We corrected some terminology used in the pre-1/1/2008 rule, WAC 230-40-823 Financial audits and reviews required—House-banking, adding generally accepted accounting standards (GAAS) instead of generally accepted accounting principles (GAAP) in one sec-

tion and standards for accounting and review services (SSARS) in another.

Global Removals of Requirements or Redundancies

Pre-1/1/2008 Rule, WAC 230-02-415 Card room employee defined. This definition was combined with rules covering the licensing of card room employees and now appears in WAC 230-03-265 of the licensing chapter.

Pre-1/1/2008 Rule, WAC 230-40-140 Change in method of wagering prohibited. We removed this requirement entirely. No game rules would allow licensees to change the method of wagering in the middle of a hand or game, so we felt the requirement was unnecessary. We also have alternative ways to enforce this concept: We would not approve a game in the future that allowed wagering methods to change in mid-hand or mid-game.

Pre-1/1/2008 Rule, WAC 230-40-315 No food or drink sales on time basis in card room. We removed this requirement entirely. Licensees may now give away food and non-alcoholic drinks without charge now according to pre-1/1/2008, WAC 230-12-050 (new WAC 230-06-035), so the requirement no longer made sense.

Pre-1/1/2008 Rule, WAC 230-40-500 Unlicensed charitable and nonprofit card games—Authority—House rules to be developed and posted. We removed portions of these requirements because they are stated in RCW 9.46.0351; therefore, we do not need to repeat it in the WAC.

Pre-1/1/2008 Rule, WAC 230-40-554 Chief executive officer or chief operations officer defined. We removed the definition of chief executive officer or chief operating officer because the term has largely fallen out of use among licensees. Most card game licensees now employ "general managers" to handle the daily gambling and other operations of the card room.

Pre-1/1/2008 Rule, WAC 230-40-050 Fees for non-house-banked card games—Assessment and collection—Maximum fees. We removed this section because these restrictions are covered in other rules.

Pre-1/1/2008 Rule, WAC 230-40-830 Cashier's cage—Requirements—House-banking. We removed this section because these restrictions are covered in other rules.

Pre-1/1/2008 Rule, WAC 230-40-610(9) Player-supported jackpots—Restrictions—Manner of conducting—Approval. We removed this section because these restrictions are covered in other rules.

Pre-1/1/2008 Rule, WAC 230-40-800 Operating rules for house-banked card games. We removed this section because the restrictions are covered in other rules.

Pre-1/1/2008 Rule, WAC 230-40-860(2) Table inventories and procedures for opening tables for house-banked card games. We removed this section because the restrictions are covered in other rules.

This new chapter incorporates rules that relate to card rooms.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 06-24-052 on December 1, 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 140, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 140, 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 140, Amended 0, Repealed 0.

Date Adopted: April 10, 2007.

Susan Arland
Rules Coordinator

Chapter 230-15 WAC

CARD GAME RULES

OPERATING CARD GAMES

NEW SECTION

WAC 230-15-001 "Public card room" defined. "Public card room" means that area of the business being commercially stimulated set aside for the playing of card games.

NEW SECTION

WAC 230-15-005 Requirements for public card games. At any time public card game licensees are conducting card games, they must:

(1) Have the food and/or drink business being commercially stimulated open to the public; and

(2) For Class E, Class F, or house-banked card games, have a licensed card room employee on duty and in the public card room area.

NEW SECTION

WAC 230-15-010 "Social card games" defined. For the purposes of this chapter, "social card games" means those card games authorized by RCW 9.46.0282. "Card games" and "social card games" mean the same thing in this chapter.

NEW SECTION

WAC 230-15-015 "Charitable and nonprofit social card room" and "guest" defined. "Charitable or nonprofit social card room" means the area of a charitable or nonprofit organization's premises set aside for the playing of social card games by full and regular members and their guests.

"Guests" means persons who are not members of a bona fide charitable or nonprofit organization, but who are allowed to use the facilities of the organization to play card games when accompanied by a regular member of the organization sponsoring the guest. Charitable and nonprofit organizations must not charge guests a fee to play that exceeds the maximum fee set by the commission.

NEW SECTION

WAC 230-15-020 Approving area of premises for card games. Card game licensees must only operate card games in the specific area of the premises we approve.

NEW SECTION

WAC 230-15-025 Hours of play. (1) Licensees must not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m. unless we approve different hours.

(2) Licensees may request, in writing, different hours of operation. Once the request is received, we will consult with the local law enforcement agency having jurisdiction over the licensee's business and with other state agencies involved in regulation of the business. We may allow licensees to adjust closing hours, but licensees must:

(a) Open the food and/or drink business being stimulated to the public for business any time licensees are conducting card games; and

(b) Have a licensed card room employee on duty and in the licensed card game area at all times during the hours of operation of a Class E, Class F, or house-banked card games; and

(c) Observe a four-hour period of closure at the end of each business day before beginning the next period of operation; and

(d) Comply with any other terms and conditions we require.

(3) We may deny the request for extended hours or revoke hours already approved if:

(a) The local law enforcement agency or a state agency objects; or

(b) We determine that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section.

(4) Licensees must submit all objections to revocations of operating hours in writing.

(5) If requested, we allow the licensee an opportunity for a brief adjudicative proceeding (BAP) before denying or revoking the licensee's authorization for extended card game hours. An administrative law judge hears the BAP, under the provisions of Title 230 WAC and chapter 34.05 RCW.

NEW SECTION

WAC 230-15-030 Authorized nonhouse-banked card games. (1) Only the following nonhouse-banked card games are authorized:

- (a) Poker;
- (b) Hearts;
- (c) Pinochle;
- (d) Cribbage;
- (e) Rummy;
- (f) Panguingue (Pan);
- (g) Pitch; and
- (h) Bid Whist.

(2) Card game licensees must operate these games in the manner explained in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Modern Encyclopedia of*

Card Games, or similar authoritative book on card games we have approved. Card game licensees may make immaterial modifications to the games.

NEW SECTION

WAC 230-15-035 Requirements for authorized card games. (1) In order for a game to be authorized, the game must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than two separate games with a single hand of cards. We consider bonus features and progressive jackpots separate games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

(ii) An "envy" or "share the wealth" wager which allows a player to receive a prize if another player wins a jackpot or odds-based wager; or

(iii) A tip wager made on behalf of a dealer.

(4) A player's win or loss must be determined during the course of play of a single card game.

NEW SECTION

WAC 230-15-040 Authorizing new games or changing game rules. Card game licensees must operate only the card games the director or the director's designee has specifically authorized. The director or the director's designee authorizes each new card game or changes to existing card games on an individual basis. A list of all authorized games and the rules of play are available at all commission offices and on the commission web site.

(1) Card game licensees must submit:

(a) Requests for authorizing new card games in the format we require; and

(b) Changes to an existing card game in writing.

(2) The director or the director's designee will notify the licensee in writing if the request is denied. The notification will include reasons for the denial and provide the licensee all information necessary to file a petition to the commission for rule making.

NEW SECTION

WAC 230-15-045 Withdrawing approved card games. If the director or the director's designee withdraws approval of a card game:

(1) The director or the director's designee will give licensees written notice and an opportunity to object to the decision. If a licensee files an objection in writing, an administrative law judge will review the decision.

(2) The director or the director's designee will provide written notice to impacted licensees after a final decision is made.

NEW SECTION

WAC 230-15-050 Minimum cash on hand requirements. (1) Card game licensees must have sufficient cash on hand to redeem all chips issued for play and pay out all prizes.

(2) Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690, licensees may pay prizes by check if sufficient funds are available on deposit.

(3) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud.

NEW SECTION

WAC 230-15-055 Limit on number of players at each table. Card game licensees must only allow:

(1) Up to seven players or areas for wagering at any table in house-banked card games.

(2) Up to ten players at any table in nonhouse-banked card games.

NEW SECTION

WAC 230-15-060 Posting rules for play. Card game licensees must:

(1) Prominently post:

(a) Wagering limits for each type of game, including the ante; and

(b) Prize pay outs and any prize-related restrictions; and

(c) All fees to play; and

(d) Policies on employees being allowed to play; and

(e) Procedures for resolving player disputes; and

(2) Prominently post any general rules, or a sign stating that these rules are available immediately on request. These rules must include, at least:

(a) Rules of play; and

(b) Methods of making wagers; and

(c) Procedures for misdeals; and

(d) Procedures for betting irregularities; and

(e) Procedures for splitting pots; and

(f) Any rules that may restrict a player's right to win a hand, pot, or jackpot prize; and

(3) Post at the gambling table any aggregate limits, procedures, or restrictions that differ from the general rules of play that have been posted.

NEW SECTION

WAC 230-15-070 Fee restrictions for nonhouse-banked card games. (1) The licensee must collect the same fee from all players at a table. If the licensee allows free play, then all players at a table must be allowed to play for free. If card game licensees base their fees on a period of time, they may allow card room employees and owners to play without a fee;

(2) Card game licensees must not require players to pay for or purchase any other goods or services as a condition of playing cards; and

(3) Card game licensees may collect an admission fee when providing entertainment, as long as they charge all patrons the fee.

NEW SECTION

WAC 230-15-075 Card game fees for nonhouse-banked card games. Nonhouse-banked card game licensees must:

(1) Not charge, directly or indirectly, fees more than those fees in WAC 230-15-080. Nonprofit or charitable card game licensees may charge their usual membership fee to belong to the organization;

(2) Keep all fees collected separate from all other chips and cash until they are recorded in the daily card room records and then deposit the fees in the cashier's cage (if applicable). All chips and cash in the cashier's cage must be kept separate from all other moneys located on the licensed premises while card games are conducted; and

(3) Keep and record card game fees separately from all other fees and have the records available for audit by commission staff, local law enforcement, and taxing authorities.

NEW SECTION

WAC 230-15-080 Authorized fees and authorized methods of collection. Card game licensees must collect only one type of card game fee at a table at any given time. The following are authorized types of fees, the card game licensees who may use those fee types, and the methods of collection:

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
(1) Period of time - (a) Licensees must collect the fee at least once per hour at times the licensee chooses, for example, at thirty minute increments; and (b) Licensees must record all fees immediately after collection; or	Class A, B, C, E, F	Direct collection; or Chip rack - only allowed if licensed for three or fewer tables; or Drop box.	Not more than ten dollars per hour, per player.
(2) Per hand played - (a) Players must place fees charged on a per-hand basis in a designated area of the table and dealers must collect them before dealing the first round of cards; and (b) After collecting the fees, dealers must deposit all chips or coins in either the drop box or chip rack ; or	Class F and house-banked	Drop box; or Chip rack - only allowed if licensed for three or fewer tables.	Not more than one dollar per hand, per player.
(3) Rake - (a) Dealers must collect fees charged on the amounts wagered during the play of the hand and place the fees in a designated area of the table; and	Class F and house-banked	Drop box; or Chip rack - only allowed if licensed for three or fewer tables.	Not more than five dollars per hand or ten percent of the total wagers for a hand, whichever is less.

Authorized types of fees	Licensees authorized to use the fee types	Authorized methods of collection	Maximum amount to collect
(b) Once dealers accumulate the maximum fee for a hand, they must spread the chips or coins to allow players and the surveillance system to view the amount collected. After spreading the chips or coins, the dealer deposits them in either the drop box or chip rack.			

NEW SECTION

WAC 230-15-085 Requirements for authorized methods of collecting fees. (1) **Direct collection** - Card game licensees using the direct collection method must have a licensed card room employee other than the dealer collect fees directly from each player and deposit the fees in the bank area serving the card games.

(2) **Drop box** - Licensees must locate the drop box opening in a place that is isolated from the pot area and in plain view of all players and the surveillance system. Licensees must have:

- (a) A licensed dealer; and
 - (b) A table with a designated area for each type of fee removed from the pot; and
 - (c) A separate drop box for each type of fee.
- (3) **Chip rack** - Licensees using the chip rack method must:

- (a) Have a licensed dealer; and
- (b) Use a game lay-out with a designated area for player fees; and
- (c) Use a chip rack separated into sections for each type of fee collected (example: Time fee collected and fee to enter player-supported jackpot); and
- (d) Ensure that dealers temporarily store and control fees in the chip rack until the floor supervisor collects the fees; and
- (e) Ensure that the licensed card room employee responsible for that area of the card room removes all chips collected as fees from the dealers' chip racks at least every four hours; and
- (f) Have licensed card room employees count chips and coins in the presence of players and immediately record the totals on the record in a format we require; and
- (g) Have the dealer and floor supervisor who remove the chips and coin each initial the commission record verifying its accuracy.

NEW SECTION

WAC 230-15-090 Requirements for drop boxes. Drop box means a metal container attached to each gambling table into which the dealer must deposit all chips and cash collected during play and, if required, insert card game inventory control slips. Each drop box must have:

- (1) **A box lock** - A lock that secures the contents; and
- (2) **A table lock** - A separate lock securing the drop box to the gambling table. Card game licensees must key this lock differently from the lock securing the contents of the drop box; and
- (3) **An opening** - An opening through which currency, coin, chips, forms, records, and documents can be inserted into the drop box; and
- (4) **A label** - A permanent number clearly visible which corresponds to a permanent number on the gambling table to which the box is attached. The shift during which the box was used must also be included if drop boxes are removed from tables more than once during an operating day. Card game licensees may keep emergency drop boxes if the box has the word "emergency" permanently on it, and, when it is put into use, licensees temporarily mark it with the number of the gambling table.

NEW SECTION

WAC 230-15-100 Providing cards and chips in card games. (1) Card game licensees, except for Class D licensees, must supply all chips and cards and not allow any other chips or cards to be used on their premises.

(2) Card game licensees must not charge additional fees to players for chips and cards except as allowed under WAC 230-15-110.

NEW SECTION

WAC 230-15-105 Only authorized cards or chips may be used. (1) No one may bring a playing card or cards into a licensed card room to introduce or use in authorized card games.

(2) Other than chips purchased from the licensed card room, no one may bring any wagering chip or chips into a licensed card room to introduce or use in authorized card games.

NEW SECTION

WAC 230-15-110 Standards for chips. (1) Chips must be of conventional size and design that maximize the integrity of the card games. Chips must be identifiable as belonging to the licensee and must:

- (a) Include the house name or logo; and
 - (b) Denote the chip value; and
 - (c) Be made by a licensed manufacturer; and
 - (d) Be purchased from a licensed manufacturer or distributor.
- (2) Class D licensees are exempt from subsection (1) of this section.
- (3) Card game licensees must:
- (a) Safeguard all chips in their possession; and
 - (b) Not allow any other person to buy or sell chips for use in card games on their premises.
- (4) Class A, B, C, and E licensees with five or fewer tables may use chips without a house name or logo if the chips are identifiable as belonging to the licensee and they prominently post values of the chips in the card room.

NEW SECTION

WAC 230-15-115 Standards for cards. (1) Card game licensees must:

- (a) Supply cards of conventional size and design to maximize the integrity of the card games; and
 - (b) Safeguard all cards; and
 - (c) Not allow cards that have been modified or marked in any manner.
- (2) For Class E, Class F, and house-banked games, the cards must:
- (a) Be made by a licensed manufacturer; and
 - (b) Be purchased from a licensed manufacturer or distributor.
- (3) House-banked licensees must use cards with the house name or logo.

NEW SECTION

WAC 230-15-120 Fees for decks of cards. (1) Card game licensees may charge a fee to a player asking for a new deck of cards.

- (2) In addition, Class D licensees may charge a fee for every deck supplied to a table.
- (3) The fee must not be greater than the licensee's actual cost for the deck.
- (4) At the time licensees introduce new decks, they must collect the fee in cash directly from the player requesting the deck or the players of the game.

NEW SECTION

WAC 230-15-125 Cutting cards in player-dealt games. In player-dealt games:

- (1) After the shuffle, the dealer must offer the cards to a player for a cut. After this initial offer of a cut, the dealer may require any player who asks for a cut to pay a maximum of one dollar; and
- (2) Dealers must:
 - (a) Not cut the cards more than twice during each hand or game; and
 - (b) Place all the fees for cutting the cards into the pot for that hand or game.

NEW SECTION

WAC 230-15-130 Rotating the deal in player-dealt games. If card game licensees offer player-dealt games:

- (1) The deal must pass from player to player; and
- (2) A player may not deal another game until all of the players at the table have had their turn to deal. Players may voluntarily waive their right to deal any particular game.

NEW SECTION

WAC 230-15-135 Wagering limits for nonhouse-banked card games. Card room licensees must not exceed these wagering limits:

- (1) **Poker** -
 - (a) There must be no more than five betting rounds in any one game; and
 - (b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and
 - (c) The maximum amount of a single wager must not exceed twenty-five dollars;
- (2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;
- (3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:
 - (a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and
 - (b) Be used as part of a player's wager;
- (4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

NEW SECTION

WAC 230-15-140 Wagering limits for house-banked card games. (1) A single wager or a bonus wager for an odds-based pay out must not exceed two hundred dollars.

- (2) A player may make a single wager for each decision before the dealer deals or reveals additional cards. For Blackjack, the player may place an additional wager for doubling down or splitting pairs.
- (3) Bonus wagers for progressive jackpots must not exceed one dollar.

NEW SECTION

WAC 230-15-145 Making wagers with chips or coin. Players in card games must make all wagers and pay fees to play card games with chips, except that:

- (1) Players may use half dollars or quarters in house-banked card games;
- (2) Players may use dimes and nickels in Pai Gow poker.

NEW SECTION

WAC 230-15-155 NSF checks. (1) Card game licensees may use a guarantee service to preapprove checks. The bank may send the original nonsufficient funds (NSF) check to the guarantee service.

(2) If card game licensees do not use a guarantee service or choose not to use their guarantee service to preapprove a particular check, licensees must:

(a) Keep records of all NSF checks in the format we require and make the records available to the cashier; and

(b) Prohibit persons who submitted NSF checks from submitting additional checks until the person pays the amount owed in full; and

(c) Have all NSF checks returned directly to them and control the checks.

(3) Card game licensees may immediately redeposit a check that was NSF if they have sufficient reason to believe the check will be honored the second time.

NEW SECTION

WAC 230-15-160 Providing dealers. (1) "Dealer" means a licensed card room employee who conducts card games, deals cards, collects or pays off players' bets, or collects fees. Card game licensees:

(a) May provide a dealer in any card game; and

(b) Must have a dealer for all house-banked card games, card games operated with a player-supported jackpot, or card games authorized to charge per-hand fees or take a rake.

(2) Dealers must not play in the games while dealing and must have no financial interest in the outcome of the games, except that we allow tip wagers.

NEW SECTION

WAC 230-15-165 Defining "floor supervisor." "Floor supervisor" means a licensed card room employee who oversees a limited number of card games within a designated area and directly supervises the dealers assigned to those games. The floor supervisor reports to the shift manager.

NEW SECTION

WAC 230-15-170 Photos of card room employees required. Card game licensees must have photographs of their licensed card room employees with the employees' licenses, available for inspection on the premises. The photo must be of a passport type not less than 2" x 3" and clearly show a full facial view of the employee.

NEW SECTION

WAC 230-15-175 Reporting card room employees no longer working. Card game licensees, except Class B or Class D, must notify us in writing when a card room employee no longer works for them. We must receive the notice at our Lacey office within ten days of the card room employee terminating employment.

NEW SECTION

WAC 230-15-180 Playing for or assisting others prohibited. No person may:

(1) Allow a representative to sit in on a card game on their behalf for any purpose; or

(2) Act as a representative on anyone's behalf; or

(3) Allow anyone to assist any player in the game in a manner which gives that player an advantage over other players.

NEW SECTION

WAC 230-15-185 Preventing cheating in card games.

(1) Card game licensees must take necessary steps to prevent cheating and ensure that games are played fairly.

(2) If card game licensees find someone cheating, they must:

(a) Contact the local law enforcement agency immediately in urgent situations; and

(b) Report it to us within three business days.

GENERAL RECORDS AND RECORDKEEPING FOR CARD GAMES

NEW SECTION

WAC 230-15-190 Preparing card game records. (1) Card game licensees must prepare all records in the format we require. Licensees must record the data in ink, on storage media, or in other permanent form.

(2) Licensees must print, or back up in a permanent form, all the data kept in computer data bases monthly.

NEW SECTION

WAC 230-15-195 Keeping and making daily records available. Card game licensees must:

(1) Keep the daily records of card room operations for at least three years;

(2) Have the past six months of daily card game records on the premises of the card room and available for inspection; and

(3) Make records older than six months available within forty-eight hours if we, local law enforcement, or taxing authorities request the records.

NEW SECTION

WAC 230-15-200 Reporting card game activity semi-annually. Card game licensees, except for Class D, must submit an activity report for their card games to us.

(1) Licensees must complete the report in the format we require; and

(2) We must receive the completed report, or the report must be postmarked, no later than thirty days after the end of the reporting period; and

(3) The highest ranking executive officer or designee must sign the report. If someone other than the licensee or an employee prepares the report, the preparer must print his or her name and phone number on the report; and

(4) Licensees must report activities for:

January 1 through June 30; and

July 1 through December 31; and

(5) Licensees must submit a report for any period of time their license was valid. If licensees do not renew, they must submit a report for the period between the previous semiannual report they filed and the date their license expired.

CARD TOURNAMENTS

NEW SECTION

WAC 230-15-205 Card tournament licenses. (1) Class A, B, E, F, or house-banked licensees may conduct a card tournament where a fee or buy-in is charged without getting a card tournament license, but they must only operate those card games approved for their license class.

(2) Class D licensees must obtain a card tournament license to charge a fee or buy-in for a card tournament.

NEW SECTION

WAC 230-15-210 Entry fees and buy-ins for card tournaments. (1) Card game licensees must:

(a) Not charge more than one hundred dollars per player for an entry fee; and

(b) Collect all entry fees before the start of play.

(2) The entry fee must include all the separate fees for various phases and events of the tournament, for food and drink, and for promotional material.

(3) Card game licensees may award prizes in excess of entry fees collected.

(4) Card game licensees may require a minimum buy-in of chips. The buy-in may be a single or multiple buy-in, but the total per player may not exceed four hundred dollars per tournament.

(5) Card game licensees must:

(a) Keep a record of the buy-ins for each player in the format we require; and

(b) Return all buy-ins to the players in cash or merchandise prizes.

(6) We do not consider buy-ins gross gambling receipts.

NEW SECTION

WAC 230-15-215 Getting card tournaments approved. (1) Card game licensees must notify us ten days before any card tournament where the single or multiple buy-in(s) are more than fifty dollars. Card game licensees must submit rules for these tournaments for approval in advance.

(2) If a tournament is identical to a previously approved tournament under subsection (1) of this section, no further approval is needed. Notify us ten days in advance of the tournament.

NEW SECTION

WAC 230-15-220 Restricting length of card tournaments. Card game licensees must not conduct a tournament for longer than thirty consecutive calendar days.

NEW SECTION

WAC 230-15-225 Tournament rules and prizes. (1) Before players pay their fees, card game licensees must prominently post on the premises and keep posted until the tournament is complete:

(a) All rules, prizes, and conditions of the tournament; and

(b) The tournament fee; and

(c) Entry and buy-in requirements; and

(d) A description of all of the goods and services they will provide as a part of the tournament.

(2) Licensees must initially provide all tournament entrants with the same number of chips or points and the same opportunity for rebuys.

(3) If there are more players than spots available in the tournament, card game licensees may conduct a drawing to determine which players participate. If there is a fee to enter the tournament, card game licensees must collect it after the drawing has occurred.

(4) After the tournament has begun, card game licensees must not conduct a drawing to decide who will fill an extra seat.

NEW SECTION

WAC 230-15-230 Offering discounted tournament fees as customer appreciation. Card game licensees may offer discounted fees to card tournaments to specific groups of players (such as Ladies' Night) as customer appreciation.

NEW SECTION

WAC 230-15-235 Exclusive tournament entry as customer appreciation. Card game licensees may offer exclusive tournament entry to specific groups as customer appreciation. Card game licensees must include all requirements or restrictions in their tournament rules.

NEW SECTION

WAC 230-15-240 Value of tournament chips. Card game licensees must use chips that have no monetary value and can only be redeemed for prizes posted by the licensee.

NEW SECTION

WAC 230-15-245 Reporting entry fees as gambling receipts. (1) Card game licensees must report all entry fees as gross gambling receipts.

(2) If card game licensees prepare and provide food and drink as a part of the entry fee, they may treat the fair market value of the food and drink as commercial stimulant sales and not include it as gross gambling receipts.

(3) The fair market value of the food and drink must not exceed twenty-five dollars per player or fifty percent of the entry fee, whichever is more. Card game licensees must support these amounts with records.

(4) When determining adjusted net gambling receipts from the entry fees, card game licensees may deduct:

(a) Cost of promotional items; and

- (b) Cost of merchandise prizes awarded; and
- (c) Cost of merchandise prizes and cash awarded in customer appreciation tournaments; and
- (d) Cash prizes awarded, excluding buy-ins.

NEW SECTION

WAC 230-15-250 Recordkeeping for card tournaments. (1) Card game licensees must keep tournament records in the format we require.

(2) On the daily control sheet for the first day of a tournament, card game licensees must include the total gross gambling receipts and attach the record of participants.

(3) Licensees must attach the tournament records to the daily card game records for the date they awarded the majority of the prizes in the tournament.

**ADDITIONAL RULES FOR CHARITABLE
AND NONPROFIT CARD GAMES**

NEW SECTION

WAC 230-15-255 Posting rules for unlicensed card and dice games. Charitable and nonprofit organizations licensed to provide liquor to their members must post house rules for unlicensed social card and dice games. At a minimum, the house rules must include:

- (1) General rules of play;
- (2) Hours of play;
- (3) Portions of the premises to be used for the games; and
- (4) The restriction that only their full and regular members may play in the games.

NEW SECTION

WAC 230-15-260 Allowing guests to play social card games. If a charitable or nonprofit organization has a social card game license, the organization may permit guests accompanied by full and regular members to play, as long as the guests comprise twenty-five percent or fewer of the persons playing at any one time.

**SURVEILLANCE REQUIREMENTS FOR CLASS F
AND HOUSE-BANKED CARD GAME LICENSEES**

NEW SECTION

WAC 230-15-265 Closed circuit television system surveillance requirements. Class F and house-banked card game licensees must install and maintain a closed circuit television (CCTV) system. Licensees must use either analog or digital recording equipment. Licensees must record video signals from all required cameras if they are performing any of the following:

- (1) Operating gambling tables; or
- (2) Storing drop boxes or chip trays on the gambling tables; or
- (3) Transporting drop boxes; or
- (4) Counting drop box contents.

NEW SECTION

WAC 230-15-270 Surveillance when operating both Class F and house-banked card games. If licensees are conducting both Class F and house-banked card games, they must meet the surveillance requirements for house-banked card games.

NEW SECTION

WAC 230-15-280 Surveillance requirements for house-banked card games. House-banked card game licensees must use a closed circuit television system (CCTV) to closely monitor and record all gambling activities and areas, including, at least:

- (1) Each table, including:
 - (a) Cards; and
 - (b) Wagers; and
 - (c) Chip tray; and
 - (d) Drop box openings; and
 - (e) Table number; and
 - (f) Card shoe; and
 - (g) Shuffling devices; and
 - (h) Players; and
 - (i) Dealers; and
- (2) The designated gambling areas; and
- (3) The cashier's cage, including:
 - (a) Outside entrance; and
 - (b) Fill/credit dispenser; and
 - (c) Customer transactions; and
 - (d) Cash and chip drawers; and
 - (e) Vault/safe; and
 - (f) Storage cabinets; and
 - (g) Fill or credit transactions; and
 - (h) Floor; and
- (4) The count room, including:
 - (a) The audio; and
 - (b) Count table; and
 - (c) Floor; and
 - (d) Counting devices; and
 - (e) Trolley; and
 - (f) Drop boxes; and
 - (g) Storage shelves/cabinets; and
 - (h) Entrance and exit; and
- (5) The movement of cash, gambling chips, and drop boxes; and
- (6) Entrances and exits to the card room.

NEW SECTION

WAC 230-15-290 Analog video recording equipment requirements. Class F and house-banked card game licensees using analog video recording equipment with video cassette recorders, including audio recording where required, must:

- (1) Record images at a rate of at least twenty frames per second on standard VHS format; and
- (2) Reflect accurately the time and date of the video recording. Licensees using multiple time and date generators must synchronize them to the same time and date.

NEW SECTION

WAC 230-15-295 Digital video recording equipment requirements. Digital recording, including audio recording where required, using a digital recording and storage system, must:

- (1) Record all images on a hard drive; and
- (2) Lock so that access to the erase and reformat functions and system data files is restricted to persons authorized in the internal controls; and
- (3) Provide uninterrupted recording of surveillance, during playback or copying. Licensees may use motion-activated recording; and
- (4) Be capable of copying original images maintaining the original native format; and
- (5) Be stored at a rate of not less than twenty-five images per second; and
- (6) Record images at a minimum resolution of 320 x 240 and display during playback at a minimum resolution of 640 x 480; and
- (7) Store images in a format that is readable by our computer equipment; and
- (8) Store images in a format that we can verify and authenticate; and
- (9) Include the accurate time and date the video was originally recorded on the recorded images; and
- (10) Be equipped with an uninterruptible power source to allow a proper system shutdown.

NEW SECTION

WAC 230-15-300 Using multiplex and quad recording devices in required surveillance. (1) Licensees must not use multiplexing and quad recording devices for required surveillance, except that they may use:

- (a) Multiplexing or quad recording devices on entrances and exits to the card room; and
 - (b) Quad recording devices to record the movement of drop boxes between tables and the count room.
- (2) "Multiplex recording" means combining multiple video inputs into a single signal by cycling through the separate video inputs with the view rotating among different cameras in a predetermined order, recording each video input sequentially in the cycle. Multiplex recording does not provide continuous recording of each video input because the amount of time lapse in the cycle depends on the number of video inputs.
- (3) "Quad recording" means four separate video inputs that record continuously and combine into a single signal displayed on one monitor with a view of each video input.

NEW SECTION

WAC 230-15-305 Reporting illegal or suspicious activities. (1) Class F and house-banked card game licensees must report to us within three business days any illegal or suspicious activities within the portion of their business premises required to be under surveillance.

- (2) Licensees must:
 - (a) Make a copy of the entire recorded sequence of the activity; and

- (b) Give the original recording to us or other law enforcement when requested; and
- (c) Keep the copy for at least thirty days.

NEW SECTION

WAC 230-15-310 Resolving disputes using video recordings. (1) If the video recording of a disputed incident is not clear, we will resolve the dispute in favor of the player unless the Class F or house-banked card game licensee can prove to us that the actions taken were warranted.

- (2) Licensees may request a review by commission staff if the licensee feels circumstances warrant, for example, cheating has occurred.

NEW SECTION

WAC 230-15-325 Surveillance room sign-in log. House-banked licensees and Class F licensees, if they operate a surveillance room, must keep a surveillance room sign-in log in the format we require to document anyone entering or leaving the surveillance room. Licensees must make the surveillance sign-in log available to us or to law enforcement personnel when requested.

NEW SECTION

WAC 230-15-330 Keeping a surveillance activities log. Class F and house-banked card game licensees must keep a log of all surveillance activities in the format we require.

ADDITIONAL RULES FOR CLASS F CARD GAMESNEW SECTION

WAC 230-15-335 Internal controls. Class F licensees must establish internal controls that ensure gambling activities are closely controlled and operated fairly.

- (1) The internal controls must require, at a minimum:
 - (a) Trained personnel; and
 - (b) Segregation of duties for all employees involved in the operation; and
 - (c) Fee collection and funds safeguarding procedures; and
 - (d) Playing card and chip inventory.
- (2) Licensees must inform their card room employees of the internal controls related to the employees' respective areas of responsibility.
- (3) Licensees and all card room employees must follow the internal controls at all times.

NEW SECTION

WAC 230-15-340 Minimum number of licensed employees required. (1) Class F card game licensees must have at least one floor supervisor for each gambling area. Each supervisor may supervise up to seven tables. We must approve the arrangement of tables in the internal controls.

- (2) Licensees must have two licensed card room employees in the card room at all times player-supported jackpots are

in play or licensees are using the rake type of fee collection. One of the employees must be a floor supervisor.

NEW SECTION

WAC 230-15-345 Numbering tables. Class F licensees must permanently number each table.

NEW SECTION

WAC 230-15-350 Transporting drop boxes. For Class F licensees using drop boxes, the supervisor or the supervisor's designee must transport drop boxes directly to the count area.

NEW SECTION

WAC 230-15-355 Counting procedures for fees. (1) We do not require Class F licensees using the drop box method to collect fees to have a separate count room if they have a secure location to count and they meet all other commission requirements for surveillance and counting procedures in WAC 230-15-275. Class F licensees must:

- (a) Conduct the count at a specific time that licensees have reported to us; and
 - (b) Count all fees at least once every twenty-four hours; and
 - (c) Have at least two card room employees count and record the amount on the count slip for each drop box; and
 - (d) Make an entry in the daily card room record for each type of fee collected at each table. Licensees must retain card game control slips for each table with the daily records.
- (2) If Class F licensees using the drop box method do not have a secure location to conduct the count, they must meet the count room requirements of WAC 230-15-605.

PLAYER-SUPPORTED JACKPOTS

NEW SECTION

WAC 230-15-360 Defining "player-supported jackpot." "Player-supported jackpot" (PSJ) means a separate contest of chance directly related to the play or outcome of an authorized nonhouse-banked card game.

- (1) Only Class F or house-banked licensees may establish a prize fund to operate a PSJ for nonhouse-banked card games.
- (2) In PSJs, licensees:
 - (a) Collect funds from the players' wagers (the pot) for a separate prize; and
 - (b) Act only as the custodian of the PSJ funds, including any interest earned on this money; and
 - (c) Maintain no legal right to the funds, except for administrative fees; and
 - (d) Must strictly account for all funds.

NEW SECTION

WAC 230-15-365 Getting approval for player-supported jackpots. (1) Class F or house-banked licensees must

not operate a player-supported jackpot (PSJ) before we approve it in writing.

(2) To get a PSJ approved, licensees must make a written request, including, at least:

- (a) A detailed description of the card game associated with the PSJ; and
 - (b) All rules of play; and
 - (c) All internal control procedures associated with the PSJ and accounting for funds and prizes; and
 - (d) The name of the prize fund custodian.
- (3) Licensees must get our written approval before making any changes to the PSJ.

NEW SECTION

WAC 230-15-370 Naming a prize fund custodian for a player-supported jackpot. (1) Class F or house-banked licensees must name at least one prize fund custodian who is responsible and accountable for safeguarding player-supported jackpot funds, and for disbursing funds to winners.

(2) A prize fund custodian may be an owner, partner, officer, or licensed individual named by the licensee.

(3) The custodian must have signature authority for prize fund bank accounts.

NEW SECTION

WAC 230-15-375 Posting rules for a player-supported jackpot. Class F or house-banked licensees must prominently post a sign stating:

- (1) How they will distribute player supported jackpot (PSJ) money if they discontinue the PSJ or stop operating the card game; and
- (2) Conditions under which prizes may be won; and
- (3) Prize amount; and
- (4) Cost to participate; and
- (5) Administrative fees; and
- (6) Any other conditions which may affect the outcome of the game.

NEW SECTION

WAC 230-15-380 Seeding a player-supported jackpot. Class F or house-banked licensees may:

- (1) Provide up to five thousand dollars seed money from house funds to start a PSJ. Licensees must issue a check or make an electronic bank transfer from the licensee's business account for the seed money to the PSJ account to start the prize fund; and
- (2) Licensees may replenish the PSJ as funds are depleted with up to five thousand dollars at a time; and
- (3) Recover seed money by having the custodian issue a check or make an electronic bank transfer from the PSJ account to the licensee's business account.

NEW SECTION

WAC 230-15-385 Collecting funds for a player-supported jackpot. Class F or house-banked licensees may collect up to two dollars per hand or game from the pot for each player-supported jackpot. Licensees:

- (1) Must keep these funds separate from all other fees; and
- (2) Must use either the chip rack or drop box method to collect these funds.

NEW SECTION

WAC 230-15-390 Collecting an administrative fee on the player-supported jackpot. Class F or house-banked licensees may collect an administrative fee of up to ten percent of the funds collected for a player supported jackpot (PSJ). Licensees must deduct no other expenses from the PSJ account.

NEW SECTION

WAC 230-15-395 House dealer required for a player-supported jackpot. Class F or house-banked licensees must use a house dealer for all card games offering a player-supported jackpot (PSJ). No one playing in the PSJ game may deal.

NEW SECTION

WAC 230-15-405 Paying out prizes on a player-supported jackpot. (1) Class F or house-banked licensees must award all player-supported jackpot funds as prizes; and

- (2) Cash prizes of two thousand five hundred dollars or less may be paid in cash or chips; and
- (3) Prizes not awarded in cash must be paid within twenty-four hours with a check that provides a duplicate copy; and
- (4) Licensees must maintain a record of all prizes paid in the format we prescribe; and
- (5) When a player wins a prize of five hundred dollars or more, in view of the surveillance camera, the dealer must:
 - (a) Display the value and suit of each card in the winning hand; and
 - (b) Count and put in numerical order by suit the remaining cards in the deck to confirm a complete deck; and
- (6) Licensees must collect the hand and seal it with a copy of the prize record. Licensees must keep the winning hand and remaining deck on the business premises for seven days.

NEW SECTION

WAC 230-15-410 Owners, prize fund custodians, and card room employees participating in player-supported jackpots. (1) Class F or house-banked owners, prize fund custodians, and on-duty card room employees may play in card games that offer a player-supported jackpot (PSJ), but must not share in the winnings of any prize awarded.

- (2) Any prizes an owner, prize fund custodian, or on-duty employee may be entitled to under game rules must be divided equally among the other players at the table.
- (3) Owners, prize fund custodians, and on-duty card room employees must turn their cards face up at the end of a game so that other players at the table and surveillance may observe their cards if:
 - (a) They are playing in a game with a PSJ; and

- (b) The prize is not based on a predetermined hand, such as four of a kind; and
- (c) There is a qualifying hand at the end of a game, such as a "bad beat" hand.
- (4) Card room employees that are off duty may win PSJ prizes.

NEW SECTION

WAC 230-15-415 Removing a player-supported jackpot from play. (1) If licensees discontinue a PSJ, they must distribute the balance, less any seed money, to players within sixty days by offering an approved promotion or tournament of the same card game played to fund the PSJ.

(2) If licensees stop operating card games or fail to maintain a valid card game license, they must immediately distribute all PSJ funds to the Washington State Council on Problem Gambling.

(3) If taxing authorities seize a PSJ account, the licensee must immediately stop offering the PSJ and collecting additional funds for the PSJ until all funds have been replaced in the PSJ account.

NEW SECTION

WAC 230-15-420 Resolving disputes over player-supported jackpots. (1) If a dispute arises involving the outcome of a player-supported jackpot (PSJ), Class F or house-banked licensees must:

- (a) Preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred; and
- (b) Document all information about the dispute, including:
 - (i) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved; and
 - (ii) The amount of the advertised PSJ; and
 - (iii) A full description of the circumstances surrounding the dispute; and
- (c) Notify us within twenty-four hours.
- (2) We will investigate complaints involving PSJ disputes and the director may issue a written decision which is final.
- (3) During the course of dispute resolution, we may become the temporary custodian of any prize funds.
- (4) Class F or house-banked licensees must not award or advertise the prize amount which is in dispute until it is resolved.

ADDITIONAL RULES FOR HOUSE-BANKED CARD GAMES

Internal Controls for House-Banked Card Games

NEW SECTION

WAC 230-15-425 Internal controls. (1) House-banked card game licensees must:

- (a) Adopt internal controls in the format we require; and
- (b) Ensure that all games are closely controlled and operated in accordance with gambling laws, our rules, and the

house-banked card game licensee's internal controls (ICs); and

(c) Follow all ICs at all times; and

(d) Have all ICs available to us at all times at the licensed business premises; and

(e) Have the ICs available to card room employees for their individual functions; and

(f) Ensure that card room employees are knowledgeable in all accounting and internal control procedures for their individual functions and ensure that employees follow the ICs.

(2) Licensed card room employees must follow the internal control procedures for their individual functions.

NEW SECTION

WAC 230-15-435 Defining "incompatible functions." (1) "Incompatible functions" means job duties that place an employee or department in a position to commit and conceal errors or wrongdoings in the normal course of his or her duties.

(2) Anyone who records a transaction and has access to the assets related to that transaction is in a position to commit and conceal errors or wrongdoings. (Examples: An employee who writes checks should not reconcile the bank account; an employee who transports funds should not have access to keys for locks securing the funds or to surveillance recordings of the transaction.)

NEW SECTION

WAC 230-15-440 Modifying internal controls and changing card games offered. (1) House-banked card game licensees must submit proposed changes to their internal controls in writing to us and receive our written approval before making any changes.

(2) Licensees may change the card games they offer by submitting the change to their internal controls in writing and getting an initial verbal or written approval from us. Staff reviews and verifies the changes on their next visit to the card room.

NEW SECTION

WAC 230-15-445 Defining "gambling operations department manager." "Gambling operations department manager" means a card room employee who is responsible for managing all card game operations.

NEW SECTION

WAC 230-15-450 Defining "shift manager." "Shift manager" means a card room employee who is responsible for all card game operations during a given shift. The shift manager reports to the gambling operations department manager.

Operating House-banked Card Games

NEW SECTION

WAC 230-15-455 Keeping funds to pay prizes, progressive jackpot prizes, and odds-based wager prizes. (1) House-banked card game licensees must ensure that they have sufficient funds available to pay prizes, progressive jackpot prizes and odds-based wager prizes. An "odds-based wager" means a wager where the player wins an amount over and above the amount he or she wagered if a fixed pattern or combination of cards occurs, for example, a royal flush, four aces, or a pair.

(2) Licensees must not offer card games until they have met all of these requirements:

(a) Keep a separate bank account for progressive jackpot prizes and odds-based wager prizes. The account must be kept in a bank, mutual savings bank, or credit union located in Washington state; and

(b) Keep in the account an amount equal to all individual odds-based wager prizes offered which are greater than twenty-five thousand dollars and all progressive jackpot prize funds; and

(c) Use the highest wager they allow to calculate the individual odds-based wager prize amount and determine the deposit requirement; and

(d) Deposit at least weekly all funds accrued for progressive jackpot prizes.

(3) Licensees may limit pay outs by using table aggregates.

(4) If the prize bank account is reduced below the level required, licensees must immediately stop operating games until they are in compliance.

(5) A licensee's failure to keep funds as required in this rule is prima facie evidence of defrauding the public and a violation of RCW 9.46.190.

NEW SECTION

WAC 230-15-460 Supervision requirements. (1) House-banked card game licensees must have at least one floor supervisor for each gambling area. Each supervisor may supervise up to seven tables. We must approve the arrangement of tables in the internal controls.

(2) Licensees must have two levels of supervision present on the business premises if more than ten tables are open.

(3) A card room employee may act as a dealer and a supervisor during the same shift as long as he or she does not sign forms as both the dealer and the supervisor.

NEW SECTION

WAC 230-15-465 Dealing all house-banked card games from a dealing shoe. House-banked card game licensees must deal all house-banked card games from a dealing shoe or a shuffling device we have approved.

NEW SECTION**WAC 230-15-470 Numbering gambling tables.**

House-banked card game licensees must permanently number each gambling table.

NEW SECTION**WAC 230-15-480 Commissions on winning hands.**

The only direct or indirect fee (commission) licensees may collect is a maximum of five percent from a winning hand in house-banked card games.

NEW SECTION

WAC 230-15-485 Standards for electronic facsimiles of cards. (1) House-banked card game licensees may use electronic card facsimiles approved by the director or the director's designee in house-banked card games if the system:

- (a) Produces accurate facsimiles of one or more standard deck(s) of cards; and
 - (b) Randomly shuffles the cards before each round of play or shoe loading; and
 - (c) Contains a backup system that records and displays at least five previous rounds of play; and
 - (d) Meets the surveillance requirements for cards explained in WAC 250-15-280; and
 - (e) Contains security protocols which prevent unauthorized access; and
 - (f) Is designed to prevent the player from playing against the device; and
 - (g) Allows testing of the computer software; and
 - (h) Operates only under card room internal controls specific to each system; and
 - (i) Is tested by a licensed game testing laboratory for compliance with these requirements; and
 - (j) Meets any additional technical requirements we require.
- (2) Card room employees must operate the system.
- (3) The manufacturer must pay the costs of laboratory testing.

NEW SECTION

WAC 230-15-490 Limiting pay outs for odds-based wagers. (1) House-banked card game licensees may create pay out limits for odds-based wagers made in card games.

(2) Licensees may limit the pay out for odds-based wagers if we approve all pay out limits and their procedures for computing limits.

(3) Individual players' winnings must not be less than the higher of:

- (a) The maximum wager allowed for the game times the highest odds offered up to fifty-to-one (50 to 1). For example: If the maximum wager is one hundred dollars (\$100) and the odds are fifty-to-one (50 to 1); then the per player limit is five thousand dollars ($\$100 \times 50 = \$5,000$); or
- (b) The house minimum required wager for the game times the highest odds offered for any wager in the game. The "minimum required wager" means the least amount a player must wager in order to win. For example: If the min-

imum required wager is ten dollars (\$10) and the maximum odds are one-thousand-to-one (1,000 to 1); then the per player limit is ten thousand dollars ($\$10 \times 1,000 = \$10,000$).

(4) Table limits (aggregate pay out) must not be less than two times the individual player limit, as computed in subsection (3) of this section; and

(5) Licensees must clearly disclose all procedures for computing any per player or table limit (aggregate pay outs). This explanation must be available to players in a brochure or other printed material.

NEW SECTION

WAC 230-15-495 Opening tables. Licensees must clearly mark the outside of the chip tray with the gambling table number which it matches. When opening gambling tables, house-banked card game licensees must follow these steps:

- (1) A floor supervisor must unlock the table inventory container (chip tray) and take out the table inventory slip (opener); and
- (2) The floor supervisor and the dealer assigned to the gambling table must:
 - (a) Count the contents of the chip tray; and
 - (b) Verify the count against the opener; and
 - (3) The dealer and the floor supervisor must then sign the opener, confirming the information on the opener is correct; and
 - (4) The dealer must immediately deposit the opener in the drop box attached to the gambling table; and
 - (5) If there is any discrepancy between the amount of gambling chips and coins counted and the amount of the chips and coins recorded on the opener:
 - (a) The floor supervisor must report immediately to the shift manager, if on duty or when the manager arrives; and
 - (b) The floor supervisor on duty must complete and sign a notification of error slip; and
 - (c) The dealer and security must verify and sign the notification of error slip; and
 - (d) Security must transport the duplicate of the notification of error slip to the accounting department or the cashier's cage; and
 - (e) The dealer must drop the original notification of error slip in the drop box attached to the gambling table; and
 - (f) The accounting department must keep a copy of the notification of error slip in a log in the format we require; and
 - (g) Licensees must notify us within twenty-four hours of errors of two hundred dollars or more, or if there is a pattern of shortages.

NEW SECTION

WAC 230-15-500 Accounting for table inventory. (1) House-banked card game licensees must establish procedures to ensure proper accounting for chips and coins stored at gambling tables, known as the "table inventory."

- (2) Licensees must not add or remove chips or coins from the table inventory except:
 - (a) In exchange for cash from players; or
 - (b) To pay winning wagers and collect losing wagers made at the gambling table; or

(c) In exchange for chips received from a player having an equal total face value (known as "coloring up" or "coloring down"); or

(d) In compliance with fill and credit procedures.

NEW SECTION

WAC 230-15-505 Selling gambling chips to players.

House-banked card game licensees must accurately account for all chips and cash when they sell chips to players. Licensees must sell chips only at the gambling table. The dealer must:

(1) Spread the cash on the top of the gambling table so that the player, floor supervisor, and surveillance have a full view of the sale;

(2) Announce the amount loudly enough to be heard by the player and the floor supervisor assigned to the table;

(3) Have the floor supervisor verify all cash sales of one hundred dollars or more;

(4) Prove the denomination and the number of chips to the player, floor supervisor, and surveillance before giving the chips to the player. Licensees must include their method for proving chips in their internal controls; and

(5) After giving the chips to the player, immediately remove the cash from the table top and put it in the drop box attached to the table.

NEW SECTION

WAC 230-15-510 Transferring chips and coin to the gambling tables. House-banked card game licensees must closely control and document all transfers of chips or coin to the gambling tables in a manner that ensures accountability and provides adequate security.

(1) All transfers of chips or coin must be to or from the cashier's cage.

(2) Chips or coin must not be transferred from one gambling table to another.

(3) All transfers of chips or coin must be made using requests for fill slips and fill slips or request for credit slips and credit slips.

NEW SECTION

WAC 230-15-515 Requirements for request for fill/credit slips. A request for fill/credit slip must be:

(1) A two part form; and

(2) Completed in the format we require; and

(3) Secured so that only a floor supervisor has access to the slip.

NEW SECTION

WAC 230-15-520 Requirements for fill/credit slips.

(1) Each fill/credit slip must be a sequentially prenumbered three-part form in the format we require. We may authorize use of a computer based accounting system which includes a nonrepeating sequential numbering system, which fulfills the controls and safeguards of the manual system. House-banked card game licensees must:

(a) Control and account for each series of fill/credit slips they receive; and

(b) Ensure the fill/credit slip dispenser is secured in the cashier's cage; and

(c) Keep each series of fill/credit slips in a locked dispenser that will permit an individual fill/credit slip in the series and its copies to be written on simultaneously while still located in the dispenser, and will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser; and

(d) Use the forms in sequential order and account for all forms; and

(e) Assign an accounting department employee to be responsible for controlling and accounting for the unused supply of fill/credit slips, placing fill/credit slips in the dispensers, and removing the triplicate copy from the dispensers. Only the accounting department employee may have access to the forms in the dispenser.

(2) If there is a paper jam, the licensee may allow a security department employee access to the dispenser to clear it.

NEW SECTION

WAC 230-15-525 Completing the fill process.

Requesting a fill.

(1) A floor supervisor must prepare a request for fill slip to authorize the cage cashier to perform a fill for the distribution of chips or coin to gambling tables.

(2) The floor supervisor and security must sign the request for fill slip at the gambling table to which the chips or coin are to be delivered.

Transporting requests for fills.

(3) Security must transport the completed original request for fill slip directly to the cashier's cage.

(4) The dealer must place the duplicate copy of the request for fill slip face up on the gambling table. It must remain there until the chips or coin are received.

Filling a request.

(5) The cashier must prepare a fill slip when a request for fill slip is received.

(6) The cashier must sign the fill slip when finished preparing the fill.

(7) A security department employee must compare and verify the request for fill slip to the fill slip and the amount of the fill. Security must sign the fill slip.

(8) Security must transport the chips, coin, and the original and duplicate of the fill slip to the gambling table.

(9) The cashier retains the original of the request for fill slip.

Receiving the fill.

(10) On receiving chips or coin, the dealer verifies the amount of the fill and signs the fill slip.

(11) The floor supervisor verifies the amount of the fill and signs the fill slip.

(12) After the dealer and floor supervisor sign the fill slip, security must observe that the dealer immediately places

the duplicate fill slip and the duplicate request for fill slip in the drop box attached to the gambling table.

(13) Security must return the original fill slip to the cashier.

(14) The cashier must attach the request for fill slip to the original fill slip.

(15) If an error is made on a fill slip, the cage cashier must write "VOID" on the original and duplicate of the slip, and sign the slip.

(16) At the end of the day or shift, the cage cashier must forward all slips to either:

(a) The count team for agreement with the duplicate of the fill slip and duplicate of the request for fill slip removed from the drop box. After the count, all fill slips and request for fill slips must be forwarded directly to the accounting department for agreement with the triplicate of the fill slip; or

(b) The accounting department for agreement with the duplicate fill slip and duplicate of the request for fill slip removed from the drop box and the triplicate of the fill slip.

NEW SECTION

WAC 230-15-530 Completing the credit process.

Requesting credit.

(1) The floor supervisor must prepare a request for credit to authorize the cage to prepare a credit slip for removing gambling chips and coin to the cashier's cage.

(2) The floor supervisor and a security employee must sign the request for credit slip at the gambling table from which the gambling chips and coin are being removed.

Transporting requests for credit.

(3) A security department employee verifies the chips and coin to the request for credit and then transports the original of the request for credit and the gambling chips or coin removed from the gambling table directly to the cashier's cage.

(4) The dealer must place the duplicate copy of the request for credit face up on the gambling table. The form must not be removed until a credit slip is received from the cashier's cage.

Filling a request for credit.

(5) The cashier must prepare a credit slip in the format we require whenever gambling chips or coin are removed from the gambling tables to the cashier's cage.

(6) The cashier must compare the request for credit to the chips or coin and sign the credit slip.

(7) A security department employee must compare and verify the request for credit to the credit slip and sign the credit slip.

(8) Security must transport the credit slip to the gambling table.

(9) The cashier retains the original of the request for credit.

Receiving the credit.

(10) On receiving the request for credit slip, the dealer and the floor supervisor verify the amount of the credit slip and sign the credit slip.

(11) After the dealer and floor supervisor sign the credit slip, the security employee must observe that the dealer immediately places the duplicate credit slip and the duplicate request for credit in the drop box attached to the gambling table from which the gambling chips or coin were removed.

(12) The security department employee must return the original credit slip to the cashier's cage. The cage cashiers must keep together and control the original of the credit slip and request for credit.

(13) If an error is made on the credit slip, the cage cashier must write "VOID" on the original and duplicate of the slip and sign the slip.

(14) At the end of the day or shift, the cage cashier must forward all slips to either:

(a) The count team for agreement with the duplicate of the credit slip and duplicate of the request for credit removed from the drop box. After the count, all credit slips and requests for credit must be forwarded to the accounting department for agreement with the triplicate; or

(b) The accounting department for agreement with the duplicate credit slip and duplicate request for credit slip removed from the drop box and the triplicate of the request for credit slip.

NEW SECTION

WAC 230-15-535 Closing tables. When closing tables, house-banked card game licensees must follow these steps:

(1) The floor supervisor and the dealer assigned to the gambling table must count the gambling chips and coins. The surveillance department must monitor and record the entire count and closure process.

(2) The floor supervisor assigned to the gambling table must record the chips and coins counted on a table inventory slip.

(3) Licensees must use sequentially prenumbered three-part forms for table inventory slips. Table inventory slips must be in the format we require and have three parts:

(a) The original (the closer); and

(b) The duplicate (the opener); and

(c) The triplicate (which is transported by security to accounting).

(4) The floor supervisor and the dealer assigned to the gambling table must sign the table inventory slip, confirming the information recorded at the time of closing.

(5) After both the dealer and floor supervisor have signed the closer, the dealer must deposit the closer in the drop box attached to the table. The dealer must place the opener face up in the chip tray, arranged so that it is clearly visible. Then the floor supervisor must lock the clear chip tray cover. The chip trays must be under recorded surveillance at all times.

(6) A security department employee must take the triplicate of the table inventory slip to the accounting department.

(7) If an error is made on the closer, the preparer must write "VOID" on all copies of the form and forward them to the accounting department.

(8) If the locked chip trays are transported to the cashier's cage at the end of each gambling day, a cage cashier must determine that all locked chip trays have been returned to the cage and are adequately secured.

NEW SECTION

WAC 230-15-540 Notifying the commission of card game interruptions. House-banked card game licensees must notify us in writing if they interrupt operations of card games for more than seven days. Licensees must:

- (1) Notify us within three days of the interruption; and
- (2) Include the reason for the interruption; and
- (3) Include the estimated date card games will resume.

NEW SECTION

WAC 230-15-545 Interruption of card games for more than seven days. (1) If a house-banked card game licensee interrupts card game operations for more than seven days, we determine whether a preoperational review and evaluation (PORE) is needed. The licensee must receive our written approval before resuming operations.

(2) The PORE determines whether:

- (a) The licensee has an organizational structure that can support their proposed accounting and administrative controls; and
- (b) Internal accounting and administrative controls ensure that the licensee closely controls the gambling activities and accurately records financial information; and
- (c) The licensee has enough trained staff; and
- (d) The physical layout of the card room and supporting functions can handle the proposed accounting and administrative controls.

Cashier's Cages in House-banked Card Rooms

NEW SECTION

WAC 230-15-550 Closely controlling money. House-banked card game licensees must closely control and keep records documenting all receipts and disbursements of cash, cash equivalents, chips, and coin related to the operation of card games.

NEW SECTION

WAC 230-15-555 Cashier's cage design and structure. (1) House-banked card game licensees must:

- (a) Locate on, or immediately adjacent to, the gambling floor a physical structure to house the cashier and act as a cashier's cage; and
- (b) Design, construct, and operate the cashier's cage to provide maximum security and accountability for funds.
- (2) The cage must include, at a minimum:
 - (a) An enclosed structure with openings through which gambling chips, checks, cash, records, documents, and other such items can be passed;

(b) Manually triggered silent alarm systems connected directly to the surveillance room(s) of the closed circuit television system or an alarm monitoring agency; and

(c) A locked door, which the surveillance department monitors access to with closed circuit television.

NEW SECTION

WAC 230-15-560 Operating the cashier's cage. (1) House-banked card game licensees must have a cashier's cage used for securing and accounting for all chips and monies in the card room portion of the business premises. Licensees must ensure that their cage cashiers, at least:

- (a) Maintain the cage inventory including currency, coin, player checks, gambling chips, forms, documents, and records normally associated with the operation of a cage; and
- (b) Receive gambling chips, cash, checks, and other cash equivalents from players in exchange for currency or coin or for check consolidations, total or partial redemptions, or substitutions; and
- (c) Receive cash or chips from the count room; and
- (d) Perform functions necessary to ensure accurate accountability of funds and chips consistent with these requirements, including, at least:
 - (i) Reconciling the total closing inventory with the total opening inventory; and
 - (ii) Receiving request for fill slips in exchange for issuing fill slips and requested chips or coin; and
 - (iii) Receiving chips or coins removed from gambling tables in exchange for issuing a credit slip; and
 - (iv) Receiving documents with signatures that ensure the effective segregation of duties; and
 - (v) Counting and recording the face value of each cage inventory item on a cashier's count sheet, along with the total opening and closing inventories, at the end of each of their outgoing shifts; and
 - (vi) Signing, at their incoming and outgoing shift, the cashier's count sheet and the cage inventory count sheet, attesting to accuracy of the count; and
 - (vii) Preparing the overall cage reconciliation and accounting records; and
 - (viii) Forwarding, at the conclusion of the daily gambling activity, copies of the cashier's count sheet, cage inventory count sheet, and related documents to the accounting department for reconciling the agreement of opening and closing inventories, notification of error slips, and the agreement of amounts on other forms, records, and documents recording transactions.

(2) Licensees may sell merchandise items out of the cashier's cage as long as they have a separate bank and receipting system for the sale and accounting of these items.

NEW SECTION

WAC 230-15-565 Access and entrance to cashier's cage. (1) House-banked card game licensees must limit entry to the cashier's cage to authorized personnel. Licensees must place on file with the accounting department the names of all persons:

- (a) Authorized to enter the cage; and

- (b) Who have the combination, keys, or the mechanism to open the locks to the entrance of the cage; and
 - (c) Who have the ability to operate the alarm systems.
- (2) Licensees must keep a sign-in log in the format we require of all persons accessing the cashier's cage.

NEW SECTION**WAC 230-15-570 Cashier's cage bank requirements.**

(1) House-banked card game licensees must keep the cashier's cage on an imprest basis. "Imprest basis" means the cage must replenish funds on a regular basis to maintain exactly the amount of outgoing cash, chips, or coin (expenditures) minus the amount of funds added.

(2) The accounting department must review expenditures and replenishments.

(3) Licensees who have demonstrated the ability to operate cage activities properly may request our approval to operate on a float basis. "Float basis" means the cage may adjust cash inventory as necessary.

NEW SECTION

WAC 230-15-575 Separate imprest bank allowed for nonhouse-banked card games. House-banked card game licensees operating both house-banked and nonhouse-banked games may sell chips for poker games through an imprest bank other than the cashier's cage. The bank must be located within the cashier's cage or another location approved in the internal controls.

NEW SECTION

WAC 230-15-580 Accepting checks at the cashier's cage. (1) House-banked card game licensees may accept checks from players as explained in WAC 230-06-005 and must meet the following additional requirements:

(a) Licensees may only accept checks from players at the cashier's cage; and

(b) Before cashing the check, the cage cashier must examine the player's identification to confirm the player's identity; and

(c) The cage cashier must:

(i) Endorse the check "for deposit only" to the licensee's bank account; and

(ii) Initial the check; and

(iii) Date and time stamp the check; and

(iv) Verify that the player is not listed on the daily returned check report. If licensees use a check guarantee and collection service, the licensee may disregard this subsection; and

(v) Exchange the check for currency and coin in the amount for which the check is drawn, minus any applicable fees; and

(vi) Forward all player checks to the main bank cashier.

(2) Before accepting a traveler's check from a player, the cage cashier must:

(a) Require the player to countersign the traveler's check in the cashier's presence; and

(b) Compare the countersignature with the original signature on the traveler's check; and

(c) Examine the traveler's check for any signs of tampering, forgery, or alteration; and

(d) Perform any other procedures that the issuer of the traveler's check requires in order to indemnify the acceptor against loss.

(3) Licensees must deposit all checks received into their bank account, within two banking days after receipt. Checks deposited to an armored car service within two banking days meet this requirement.

Drop Boxes in House-banked Card RoomsNEW SECTION

WAC 230-15-585 Using drop boxes. (1) House-banked card game licensees must use a drop box to collect all cash, chips, coins, requests for fill, fill slips, requests for credit, credit slips, and table inventory forms.

(2) The dealer or the floor supervisor must deposit these items in the drop box.

NEW SECTION

WAC 230-15-590 Transporting drop boxes. (1) When transporting drop boxes, house-banked card game licensees must have one security employee and one gambling operation employee transport all drop boxes removed from the gambling tables directly to the count room and secure them there. The security employee must notify the surveillance department when transport begins.

(2) If drop boxes are removed from gambling tables at times other than the close of the gambling day, the persons removing drop boxes must remove them during a shift change. These persons must prepare a table inventory slip as required in WAC 230-15-535, and the incoming and outgoing supervisors must verify the inventory and sign the table inventory slip.

(3) Count team members may pull and transport the drop boxes to the count room for the count process if:

(a) The gambling operation is closed; and

(b) The card room entrances/exits are locked; and

(c) Security supervises the transport.

NEW SECTION

WAC 230-15-595 Storing drop boxes not attached to tables in the count room. House-banked card game licensees must store all drop boxes not attached to a gambling table in the count room in an enclosed storage cabinet or trolley with two separately keyed locks. The security department must keep and control keys to the first lock and the gambling operation department must keep and control the keys to the second lock.

NEW SECTION

WAC 230-15-600 Storing drop boxes on closed gambling tables. House-banked card game licensees may store drop boxes on closed gambling tables if recorded surveillance covers the entire area.

Count Requirements in House-banked Card Rooms

NEW SECTION

WAC 230-15-605 Requirements for count rooms. (1)

House-banked card game licensees must have a secured area, called a "count room," for counting the contents of drop boxes.

(2) Licensees must design and construct the count room to provide maximum security for the materials housed there and for the activities conducted there. The count room must be fully enclosed with only one entry. Licensees must also have:

(a) A door with at least one lock securing the count room door. The security department must keep and control the key or combination to the door. If a double locking system is used, the gambling operation department must keep the key to the second lock; and

(b) A sign-out procedure for all authorized keys used for the count process; and

(c) An alarm device connected to the entrance of the count room so that opening the door signals the surveillance employees monitoring the closed circuit television system.

(3) In the count room, licensees must have:

(a) A table of clear glass or similar material with a base that does not obstruct viewing for the emptying, counting, and recording of the contents of the drop boxes (the "count"); and

(b) Closed circuit television cameras and microphones that capture effective and detailed video and audio monitoring of the entire count process; and

(c) A sign posted in the count room or at the entrance that states audio recordings are occurring within the count room at all times.

(4) Licensees must keep a count room sign-in log in the format we require.

NEW SECTION

WAC 230-15-610 Preparing to conduct a count. (1)

House-banked card game licensees must assign employees to conduct the count. The count team must be made up of three or more licensed employees. The count team must not include anyone who works in the surveillance department or whose duties included preparing, approving, or reviewing records used in that specific count process.

(2) Licensees must accurately count and record the contents of drop boxes to ensure the proper accountability of all gambling chips, coin, and currency. The count must be done at least once each gambling day.

(3) If a cage cashier completes the opener, closer, fills, and credits portions of the master game report, the cashier sends the original master game report to the count team for completion. The cage cashier must immediately send a copy directly to the accounting department.

(4) A count team member must notify the surveillance room observer that the count is about to begin. The surveillance employee must then make a video and audio recording of the entire count process.

(5) Before opening drop boxes, the count team must lock the door to the count room. Licensees must permit no person to enter or leave the count room, except for a normal work break or an emergency, until the count team has completed the entire counting, recording, and verification process for the contents of drop boxes.

NEW SECTION

WAC 230-15-615 Conducting the count. (1) The contents of drop boxes must not be combined before the count team separately counts and records the contents of each box; and

(2) As each drop box is placed on the count table, a count team member must announce the game, table number, and shift, if applicable, loudly enough to be heard by all persons present and to be recorded by the audio recording equipment; and

(3) A count team member must empty the contents onto the count table; and

(4) Immediately after the contents are emptied onto the count table, a count team member must display the inside of the drop box to the closed circuit television camera, and show it to at least one other count team member to confirm that all contents of the drop box have been removed. A count team member must then lock the drop box and place it in the drop box storage area; and

(5) Count team member(s) must separate the contents of each drop box into separate stacks on the count table by denominations of coin, chips, and currency and by type of form, record, or document; and

(6) At least two count team members must count, either manually or mechanically, each denomination of coin, chips, and currency separately and independently. Count team members must place individual bills and coins of the same denomination on the count table in full view of the closed circuit television cameras, and at least one other count team member must observe and confirm the accuracy of the count orally or in writing; and

(7) As the contents of each drop box are counted, a member of the count team must record the total amount of coin, chips, and currency counted (the drop) on the master games report; and

(8) If a cage cashier has recorded the opener, closer, fill slips, and credit slips on the master game report before the count, a count team member must compare the series numbers and totals recorded on the master game report to the fill slips, credit slips, and table inventory slips removed from the drop boxes, confirm the accuracy of the totals, and must record, by game and shift, the totals we require on the master game report. Otherwise, the count team must complete all required information on the master game report; and

(9) The accounting department may complete the win/loss portions of the master game report independently from the count team if this is properly documented in the approved internal controls.

NEW SECTION

WAC 230-15-620 Concluding the count. (1) After the count team finishes their count, the cage cashier or account-

ing department employee must verify the contents of the drop boxes.

(2) In the presence of the count team and before looking at the master game report, the verifier must recount the cash, either manually or mechanically.

(3) The verifier must sign the master game report verifying that the cash count is accurate.

(4) Each count team member must sign the report attesting to the accuracy of the information recorded.

(5) After the report is signed, the original master game report must be taken directly to the accounting department, along with the requests for fills, the fill slips, the requests for credit, the credit slips, and the table inventory slips removed from drop boxes. The cage cashiers must not be allowed access to any of these records.

NEW SECTION

WAC 230-15-625 Accounting department review of the count. (1) On a daily basis, the accounting department must:

(a) Have a card room employee with no recording responsibilities compare a sample of originals and copies of the day's master game report, requests for fill, fill slips, requests for credit, credit slips and table inventory slips for agreement with each other and, if applicable, to triplicates or stored data; and

(b) Review a sample for the appropriate number and propriety of signatures; and

(c) Account for the originals and copies by series numbers, if applicable; and

(d) Test for proper calculation, summarization, and recording; and

(e) Subsequently record in monthly records; and

(f) Keep and control the originals and copies.

(2) The accounting department must report discrepancies immediately to us for investigation.

(3) If the accounting department does not work on weekends or federal or state holidays, they must complete these reviews on the next day that they work.

Securing House-banked Card Room Keys

NEW SECTION

WAC 230-15-630 Restricting access and controlling keys. House-banked card game licensees must use keys to control access to restricted areas of the business premises.

(1) Licensees must install and keep key control boxes that, at least:

(a) Are constructed of metal with a minimum of one key-lock mechanism. We permit coded key boxes or combination key boxes; and

(b) Are attached to a permanent structure without the hardware used to attach the key box being visible; and

(c) Are tamper proof; and

(d) Store keys so that they are identifiable, have identification labels, and are displayed in numeric or alphabetic order; and

(2) Licensees may decide the location of key control boxes, but the location must not allow an individual to gain

access to a restricted area that he or she would not otherwise be authorized to enter.

(3) If licensees locate key boxes in restricted areas, persons who are not authorized to enter those areas must give their key to the key box to an authorized person. The authorized person must then only open the key box in the presence of the unauthorized person or while under camera coverage.

NEW SECTION

WAC 230-15-635 Electronic key control systems. House-banked card game licensees may use electronic key control systems if we review and approve them in writing.

NEW SECTION

WAC 230-15-640 Keeping individual key control boxes for departments. (1) House-banked card game licensees must keep individual key control boxes for at least these departments:

(a) Gambling operations;

(b) Accounting;

(c) Security; and

(d) Surveillance.

(2) Licensees must:

(a) Document in their approved written internal controls how they will keep the keys or combinations to each key control box secure; and

(b) Limit access to key control boxes to the licensed card room employee(s) responsible for the overall supervision or management of the department for which the box is kept. The employee(s) must keep this key or combination in their possession while gambling is being conducted; and

(c) Keep any duplicate keys to the key control boxes in the master key control box.

NEW SECTION

WAC 230-15-645 Keeping a key control log. House-banked card game licensees must keep a key control log in the format we require to record the use and return of keys used to control access to restricted areas.

NEW SECTION

WAC 230-15-650 Keys for the gambling operations department. In the gambling operations department, the key control box must include, at least, the key(s) to:

(1) Each pit podium; and

(2) Drawers and other locking cabinets located in each designated gambling area podium; and

(3) Remove the cover from the chip trays; and

(4) The second lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes removed from the gambling tables; and

(5) All jackpot pay out boxes included with authorized card games; and

(6) All control boxes used to maintain authorized card games; and

(7) Other areas included in the approved internal controls.

NEW SECTION**WAC 230-15-655 Keys for the security department.**

In the security department, the key control box must include key(s) to:

- (1) The lock to the count room door; and
- (2) The lock that secures the drop boxes to the gambling table; and
- (3) The first lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes; and
- (4) The storage cabinet(s) or other secure facility used to store the card inventory including decks not yet placed in play and decks removed from play and waiting to be canceled or destroyed; and
- (5) The main entry or access door of the card room; and
- (6) Other areas included in the approved internal controls.

NEW SECTION

WAC 230-15-660 Keys for the accounting department. (1) The accounting department key control box must include the key(s) to:

- (a) The lock securing the contents of the drop boxes; and
 - (b) The rear of the locked dispenser used to store the triplicate of the fill/credit slips in a continuous, unbroken form; and
 - (c) The door to the cashier's cage; and
 - (d) Reset the lock to the drop boxes; and
 - (e) Other areas included in the approved internal controls; and
- (2) The cashier's cage key control box must include key(s) to:
- (a) Each cashier's window drawer; and
 - (b) The chip drawer or fill bank; and
 - (c) The vault and/or the safe; and
 - (d) The door to the cashier's cage; and
 - (e) The front of the locked dispenser used to store the triplicate of the fill/credit slips in continuous, unbroken form; and
 - (f) The dealer tip boxes; and
 - (g) Other areas included in the approved internal controls.

NEW SECTION

WAC 230-15-665 Keys for the surveillance department. In the surveillance department, the key control box must include keys to:

- (1) The surveillance room; and
- (2) The storage cabinet(s) or locker(s) used to keep surveillance recordings, cards, or other items of evidentiary value or recordings documenting details of jackpot pay outs.

NEW SECTION**WAC 230-15-670 Keeping a master key control box.**

(1) House-banked card game licensees may keep a master key control box with access strictly limited to the owner(s), general manager, or other authorized person(s).

- (2) Keys in this key control box may include:

(a) Extra keys for the department key boxes and restricted areas; and

(b) Other keys included in the licensee's approved internal controls.

NEW SECTION

WAC 230-15-675 Key control box for the emergency key. For emergency situations, house-banked card game licensees may keep an additional key control box with a key which can be accessed on a limited basis for the safety of employees. We must preapprove any emergency key control boxes.

Progressive Jackpot Prizes for House-banked Card Games

NEW SECTION

WAC 230-15-680 Operating progressive jackpot prizes. House-banked card game licensees may operate progressive jackpot prizes with certain approved house-banked card games.

(1) To participate in a progressive jackpot, a player places a separate wager, part of which accrues to the progressively increasing prize.

(2) Manufacturer's game rules determine the winning patterns or combinations of cards.

(3) Licensees must offer a primary jackpot and may have a secondary or reserve jackpot prize.

(4) Licensees must adequately disclose to players the prizes available and how they are won.

(5) Licensees must ensure that they closely control progressive jackpot games and account for all the funds collected.

NEW SECTION

WAC 230-15-685 Restrictions on progressive jackpots. House-banked card game licensees operating progressive jackpots must follow these restrictions and procedures:

(1) Progressive jackpot funds must accrue according to the rules of the game; and

(2) At each gambling table, licensees must prominently post the amount of the progressive jackpot that players can win; and

(3) Licensees must record the beginning amount of each progressive jackpot offered, including explanations for any increases or decreases in the prize amount offered. Licensees must keep this documentation with the progressive jackpot records; and

(4) Licensees may establish a maximum limit on a progressive jackpot prize. If licensees establish a limit, they must make the amount equal to, or greater than, the amount of the jackpot when they imposed the limit. They must prominently post a notice of the limit at or near the game.

NEW SECTION

WAC 230-15-690 Paying out progressive jackpot prizes. (1) House-banked card game licensees must immediately pay out verified prizes of five thousand dollars or less.

(2) For verified prizes over five thousand dollars, licensees must immediately pay out a minimum of five thousand dollars and pay the remaining balance within twenty-four hours by check. The player may request that the licensee pay up to the entire prize balance by check. Licensees must then issue a check for the entire prize balance within twenty-four hours.

NEW SECTION

WAC 230-15-695 Adjusting progressive jackpot amounts. House-banked card game licensees must not reduce the amount of a progressive jackpot prize accrued or displayed except for the following reasons:

(1) To reduce the jackpot and the advertised amount by the amount won; or

(2) To correct an amount displayed incorrectly because of malfunctioning equipment; or

(3) To correct the display when the amount displayed is greater than the predetermined maximum prize limit; or

(4) To reduce a reserve or secondary jackpot as long as they record the funds removed as gross receipts and properly documented that in their records; or

(5) To reduce a reserve or secondary jackpot to recover seed money that was not taken from gross receipts, if they properly document those funds in their records; or

(6) To reduce the jackpot by the dollar amount they paid for merchandise they award as prizes.

NEW SECTION

WAC 230-15-700 Merchandise prizes for progressive jackpots. House-banked card game licensees offering merchandise prizes for progressive jackpots must:

(1) Own the merchandise prizes and pay for them in full, without lien or interest of others, before they award the merchandise as prizes. If the winner has an option to receive a cash prize instead of the merchandise, licensees may enter into a contract to immediately purchase a merchandise prize after the winner chooses their option; and

(2) Disclose that they used a specific portion of the jackpot funds to buy merchandise to be awarded as prizes, as well as the specific merchandise prizes to be awarded; and

(3) Disclose the value of the merchandise they plan to award. This value must be accurate and verifiable; and

(4) Award the merchandise on the specific outcome of a game and include the outcome in the game rules; and

(5) Keep detailed records, including the purchase invoice, on premises and make them available for our review.

NEW SECTION

WAC 230-15-705 Temporarily removing a progressive jackpot from play. House-banked card game licensees may temporarily remove a progressive jackpot game from play if:

(1) The licensee submits a written request for removal with their reasons and we approve in writing; and

(2) The circumstances are beyond the licensee's control or there is other good cause leading to the disruption, for example, remodeling the card room; and

(3) The licensee notifies players of the disruption and the estimated date when the jackpot will continue.

NEW SECTION

WAC 230-15-710 Permanently removing a progressive jackpot or a portion of a progressive jackpot from play. (1) Players have a vested interest in the posted or advertised progressive jackpot prize.

(2) Licensees must:

(a) Submit a detailed distribution plan to us in writing and receive written approval before removing any progressive jackpot prizes from play; and

(b) Prominently post a notice and the distribution plan, including if they plan to close the business, at least ten days before they begin the process of removing the jackpot and distributing the funds; and

(c) Distribute the funds in one or more of the following ways:

(i) Offering the prize on a different house-banked game; or

(ii) Offering the prize in an approved free tournament in which funds must be distributed within sixty days from the date of approval; or

(iii) Donating the money to the Washington State Council on Problem Gambling.

NEW SECTION

WAC 230-15-715 Tax authorities seizing all, or a portion, of a progressive jackpot. If a taxing authority seizes jackpot funds, the house-banked card game licensee must immediately cease operating the progressive jackpot game and collecting funds for the progressive jackpot until the amount that was posted as the prize has been replaced in the bank account. Licensees may either replace reserve or secondary funds that were seized or record the funds as gross receipts.

NEW SECTION

WAC 230-15-720 Deposit and reconciliation requirements for progressive jackpot prizes. (1) House-banked card game licensees must deposit all progressive jackpot funds in a separate bank account at least weekly.

(2) Licensees must:

(a) Keep a record of all deposits; and

(b) For each progressive prize, identify the deposits by game name and number and dates of collection; and

(c) Maintain validated deposit slips as part of their records.

(3) At the end of the month, licensees must:

(a) Reconcile the account balance with the bank statement to the progressive jackpot fund balances. "Reconcile" means the licensee must compare the two balances, resolve

any differences, and document the comparison and the differences in writing; and

- (b) Keep the reconciliation as part of their records.

Records and Recordkeeping for House-banked Card Games

NEW SECTION

WAC 230-15-725 Keeping all card game records.

House-banked card game licensees must keep and maintain all card game records in the format we require.

NEW SECTION

WAC 230-15-730 Keeping an accounting system. (1)

House-banked card game licensees must keep and maintain a complete set of accounting records which we have approved before licensure. These records must include all receipts and disbursements of the licensee, including, at least, those related to gambling activities.

Revenue, costs, and expenses.

(2) Licensees must keep legible, accurate, and complete records of all transactions relating to the revenues, costs, and expenses of the gambling operation. Licensees must keep these records in a format that ensures consistency, comparability, and effective disclosure of financial information.

Accounting system.

(3) Licensees must keep an accounting system on a double entry method of accounting with transactions recorded on an accrual basis and in conformity with United States' Generally Accepted Accounting Principles (GAAP).

Recordkeeping.

(4) Licensees must keep detailed, supporting, and subsidiary records including, at least:

(a) Records of all players' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible"; and

(b) Records of investments in property, including, at least, equipment used directly in connection with the gambling operation; and

(c) Records of amounts payable by the gambling operation; and

(d) Records which identify the purchase, receipt, and destruction of all cards and gambling chips used in wagering; and

(e) Records of services provided for the operation of gambling activities, for example, service provided by gambling service suppliers; and

(f) Master game reports that reflect drop and win amounts for each table, for each game. These records must cover at least each period for which the drop boxes are removed, or at the minimum, the period of each gambling day.

Copies.

(5) Licensees must color code any form, record, or document that requires duplicate or triplicate copies.

(6) If forms, records, and documents are required to be inserted into a locked dispenser, the last copy must remain in a continuous unbroken form in the dispenser.

Storing documents.

(7) All forms, records, documents, and stored data required to be kept and controlled must have the title printed on the item, such as "fill slip," "request for fill slip," "credit slip," "request for credit slip," or "reconciliation."

(8) Licensees must keep all records for a period of not less than three years. At least the last six months of gambling records must be available for inspection on the business premises.

NEW SECTION

WAC 230-15-735 Keeping employee licensing records. (1)

Licensees must keep a records system on the business premises that ensures all applicable employees have met licensing requirements. The records must include:

- (a) Employees' names;
- (b) Gambling license numbers;
- (c) Gambling license expiration dates; and
- (d) Photocopies of all current employees' licenses.

(2) Licensees must keep copies of the applications of all employees who have applied for, but have not yet been issued, a license. The records must include:

- (a) Temporary employment authorization;
- (b) Documentation that the employee has made the required license or transfer fee payment; and
- (c) Proof that the employee has followed the ten-day waiting period, if applicable.

(3) Licensees must notify us if a card room employee does not receive a license within sixty days of employment.

NEW SECTION

WAC 230-15-740 Preparing required financial statements.

Definitions.

(1) The following definitions apply to all subsections of this rule:

(a) "Financial statements" means documents, including, at least: Balance sheet, statement of income, statement of retained earnings or changes in equity, statement of cash flows, and all required notes or disclosures.

(b) "Card room gross receipts" means all receipts from all house-banked and nonhouse-banked card games offered by the house-banked card room.

(c) "Independent" means there is no relationship that may influence a certified public accountant's impartiality and objectivity in rendering services.

Filing with the commission.

(2) House-banked card game licensees must submit financial statements covering all financial activities of the lic-

ensees' business premises for each business year within one hundred twenty days following the end of their business year.

(3) We may authorize a sixty-day extension if a licensee submits a written request explaining the need for the extension.

Audited financial statements - gross receipts of over three million dollars.

(4) Licensees with house-banked card game gross receipts of more than three million dollars for the business year must hire an independent, certified public accounting firm licensed by the Washington state board of accountancy to audit the licensee's financial statements according to Generally Accepted Auditing Standards (GAAS).

Reviewed financial statements - gross receipts of one to three million dollars.

(5) Licensees with house-banked card room gross receipts of one to three million dollars for the business year must hire an independent, certified public accounting firm licensed by the Washington state board of accountancy to review the licensee's financial statements according to the Statements on Standards for Accounting and Review Services (SSARS) or audit the licensee's financial statements according to GAAS.

Compiled financial statements - gross receipts of less than one million dollars.

(6) Licensees with house-banked card room gross receipts of less than one million dollars for the business year must hire an independent, certified public accounting firm licensed by the Washington state board of accountancy to compile the licensee's financial statements according to SSARS or audit the licensee's financial statements according to GAAS. This compilation must include all required notes or disclosures on an accrual basis of accounting.

Financial statement preparation.

(7) Licensees must prepare financial statements on a comparative basis. For the first year of operation only, licensees do not have to submit comparative financial statements. Licensees must report gross revenues from each licensed activity separate and apart from all other revenues.

(8) All financial statements must be prepared in accordance with the United States' Generally Accepted Accounting Principles (GAAP).

Consolidated financial statements.

(9) Commonly owned or operated business premises may present consolidated financial statements. Licensees must include consolidated schedules presenting separate financial statements for each licensed card room location.

Change in business year.

(10) Licensees must notify us in writing within thirty days if they change their business year. Licensees must submit financial statements covering the period from the end of the previous business year to the end of the new business year.

NEW SECTION

WAC 230-15-745 Signature cards. House-banked card game licensees must keep signature cards in the format we require for all licensed card room employees.

(1) The card must be prepared in the presence of a member of the accounting department, who must review a picture identification card and verify the signer's identity.

(2) Licensees must keep completed cards in a signature card file, sorted by department and listed alphabetically by name. Licensees must review and adjust the signature records as needed to reflect changes of personnel.

(3) Licensees must securely store signature cards in the accounting department.

(4) The cashier's cage must keep a copy of each signature card and cage personnel must use it to verify signatures.

(5) Licensees must retain the signature records for a period of at least one year after employment ends.

NEW SECTION

WAC 230-15-750 Signature requirements for documents, records, and forms. (1) House-banked card game licensees must document each transfer of cash, coins, or chips and verify the transfer with the signature(s) of individual(s) responsible for the records.

(2) By signing documents, records, and forms, signers are indicating that they:

(a) Have prepared them according to the requirements of the accounting system and internal controls; and/or

(b) Attest to the accuracy of the information recorded for which they are responsible.

(3) Signers must sign immediately next to, or above, the clearly printed or preprinted title on all forms, records, and documents.

(4) Signatures must, at least, be the signer's first initial and last name, for example, "B. Smith," and the signer's employee number.

**WSR 07-09-064
PERMANENT RULES
OLYMPIC REGION
CLEAN AIR AGENCY**

[Filed April 16, 2007, 2:31 p.m., effective May 17, 2007]

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

Purpose: This change will enable the agency to collect additional revenue for the registration and notice of construction programs. The additional revenue is needed to more fully fund these programs.

Citation of Existing Rules Affected by this Order: Amending Olympic Region Clean Air Agency Regulations, Rules 3.1 and 3.3.

Statutory Authority for Adoption: Chapter 70.94 RCW. Adopted under notice filed as WSR 07-05-071 on February 20, 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 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: April 11, 2007.

Richard A. Stedman
Executive Director

REGULATION 3 - FEES

AMENDED SECTION

RULE 3.1 ANNUAL REGISTRATION FEES

(a) The Agency shall charge Initial and Annual registration fees pursuant to RCW 70.94.151. Annual registration fees shall be assessed according to the annual fee schedules set forth in Rule 3.1(b) below. Initial registration fees shall be assessed upon initial registration of a source subject to registration and shall equal the annual registration fee based on projected emissions and prorated for the remaining months in the fiscal year. Initial and Annual registration fees shall provide revenue to fund the Agency's ongoing Registration Program.

(b) All sources requiring registration shall be assessed an annual registration fee consisting of the sum of a "source fee," "generating equipment fee," "stack fee," "class fee," "emissions fee," and "source specific monitoring fee" according to items (1) through (8) of this rule and amounts as specified in Table 3.1a. Sources assessed annual operating permit fees under (~~Regulation 5~~) Rule 3.2 shall not be assessed annual fees under this rule.

(1) Source fee - All sources requiring registration shall pay an annual "source fee" of an amount as indicated in Table 3.1a; and

(2) A Generating Equipment Fee of an amount as indicated in Table 3.1a for each fee eligible generating equipment located at the source; and

(3) A Stack Fee of an amount as indicated in Table 3.1a for each fee eligible stack located at the source; and

(4) An Emissions Fee of an amount as indicated in Table 3.1a per ton of each air contaminant listed in Table 3.1b emitted by the source for air contaminants emitted in excess of (~~40~~) 5 tons, evaluated on a pollutant by pollutant basis, during the previous calendar year, or as contained in the file or permit; and

(5) A Class Fee of an amount as specified in Table 3.1a; and

(6) A Source Specific Monitoring Fee of an amount as specified in Table 3.1a if ambient monitoring is a requirement for the source;

(7) The Agency shall assess the emissions fee based on actual emissions from the source for the last calendar year when available;

(8) The annual registration fees required by this rule shall be based on process rates, equipment specifications, and emissions data from the previous calendar year on file with the Agency. For purposes of assessing annual registration fees, the Agency shall consider updates and revisions to any source's file, received prior to (~~August~~) July 1 of the current year. If process rates, equipment specifications, and emissions data from the previous calendar year is not on file with the Agency, the Agency may base the annual fee on the enforceable emissions limitations for the source and maximum capacities and production rates.

(9) For purposes of assessing annual registration fees, definitions for "fee eligible generating equipment" and "fee eligible stack" shall be consistent with the definitions in Rule 1.4, and fee eligible generating equipment and fee eligible stacks which are identical in size, capacity, function, and emissions may be counted as one unit as approved by the Agency.

(c) The Agency shall assess annual registration fees after August 1 of each year to cover the cost of administering the program for the current fiscal year commencing July 1 and ending June 30. The agency shall assess annual registration fees based on the most recent information on file with the Agency including any updates to the source's file received prior to (~~August~~) July 1 of that year.

(d) Upon assessment by the Agency, annual registration fees are due and payable and shall be deemed delinquent if not fully paid within thirty (30) days. However, sources classified as RC1 or RC2 shall be given the option to pay their annual fee in quarterly installments. RC1 and RC2 sources may choose to pay their annual fees in quarterly installments by indicating so on the first invoice received and remitting payment of the first installment to the Agency along with the duplicate copy of the invoice. Quarterly installments shall be equal to 25% of the total annual registration fee and shall be due within 30 days of each quarter following initial assessment by the Agency.

(e) Any source which fails to pay, in full, (~~does not pay~~) their annual registration fee or annual registration installment (~~within thirty (30) days of~~) by the due date, as stated on the invoice, shall be assessed a late penalty in the amount of 25% of their annual registration fee. This late penalty shall be in addition to the annual registration fee.

(f) Annual registration fees may be appealed according to the procedure specified in Rule 1.8.

(g) Failure to pay annual registration fees is a violation of these Regulations and will result in the issuance of a Notice of Violation and prescribed penalties.

Table 3.1a: Annual Registration Fees

ANNUAL FEE COMPONENT	FEE COMPONENT DESCRIPTION	FEE AMOUNT
Facility Fee	Fee assessed to all sources requiring registration (or an operating permit).	(\$107.00) <u>\$135.00</u>
Generating Equip. Fee	Fee assessed per each fee eligible generating equipment located at the source.	\$45.00
Stack Fee	Fee assessed per each fee eligible stack located at the source.	(\$27.00) <u>\$30.00</u>
Emissions Fee	Fee assessed per ton of particulate matter, SO ₂ , NO _x , VOC, and toxic air contaminants emissions which exceeded ((10)) <u>5</u> tons per year for the previous calendar year based on actual emissions.	(\$11.00) <u>\$20.00</u>
Class Fees:		(\$1345)
RC1	Major sources (≥100 tpy)	<u>\$1600.00</u>
RC2	Major toxic sources	(\$1138) <u>\$1600.00</u>
RC3	Criteria pollutants ≥ 30 tpy	(\$580) <u>\$800.00</u>
RC4	Criteria pollutants ≥ 10 tpy	(\$124) <u>\$250.00</u>
RC5	Criteria pollutant < 10 tpy	(\$31) <u>\$50.00</u>
RC6	Toxic air contaminants < 10 tpy	(\$124) <u>\$200.00</u>
RC7	< 100 gal/mo VOC containing materials	(\$62) <u>\$50.00</u>
RC8	Incinerators < 30 tpy emissions	(\$217) <u>\$210.00</u>
RC9	Potential odor sources.	(\$62) <u>\$400.00</u>
RC10	Maj. gasoline terminals & bulk plants	(\$155) <u>\$500.00</u>
RC11	Min. gasoline terminals & bulk plants	(\$104) <u>\$200.00</u>
RC12	Gas stations requiring Stage II	(\$11) <u>\$20.00</u>
RC13	Gas stations (≥ 100 thousand gal/yr)	\$0
RC14	VACANT CLASSIFICATION	
RC15	Other sources requiring registration	(\$104) <u>\$100.00</u>
Source Specific Ambient Air Monitoring Fees	Fees charged a source for ORCAA to establish and operate a special purpose source specific monitoring station would be determined on a case-by-case basis when such monitoring is required.	Variable

Table 3.1b: Pollutants Considered For Fees

Total Particulates (TSP)
Sulfur Oxides (SO _x)
Nitrogen Oxides (NO _x)
Volatile Organic Compounds (VOC)
Toxic Air Pollutants

(h) On an annual basis, the Agency shall conduct a workload analysis to determine the adequacy of annual regis-

tration fees in funding the Agency's Registration Program. The workload analysis shall be based on the Agency's historical record of time and resource expenditures associated with the registration program. The workload analysis shall be made available if a request is made to the Agency. Any proposed revisions to the annual registration fee schedule shall be presented to the Board for adoption after public noticing pursuant to these Regulations public noticing requirements and opportunity for a public hearing.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Olympic Region Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDED SECTION

Rule 3.3 Notice of Construction Fees

(a) ~~((The fee))~~ Fees for processing a Notice of Construction (NOC) application shall include ~~((a))~~ Filing Fees according to Rule 3.3(b) ~~((, Plan Examination and Inspection))~~ and any applicable Additional NOC Processing Fees according to Rule 3.3(c) ~~((, and any applicable Additional NOC Processing Fees according to Rule 3.3(d)))~~. Other cost to the agency of work performed outside of the agency in conjunction with approving a NOC application shall be directly reimbursed to the agency according to Rule 3.3(d).

(b) Filing Fees. ~~((The Agency shall not commence processing a NOC application until it has received a filing fee of \$100.00-))~~ A Filing Fee according to Table 3.3a shall be paid for each proposed piece of equipment or process, or for groups of identical equipment or processes that, if considered individually would be subject to a NOC. Filing Fees shall be assessed and paid as follows:

(1) A NOC application may not be deemed complete unless Filing Fees have been paid in full.

(2) Equipment or processes may be considered identical and subject to a single filing fee provided:

(i) They are identical in size and capacity;

(ii) Employ identical air pollution control technology;

(iii) Use the same fuel types;

(iv) Are subject to the same performance standards and air regulatory determinations; and

(v) May be considered as a single emissions point for the purpose of determining ambient air quality impacts.

(3) Payment of NOC Filing Fees shall be due no later than thirty (30) days from the date of the invoice unless an alternative payment plan has been approved by the executive director.

~~((e))~~ ~~((Plan Examination and Inspection Fees. A Plan Examination and Inspection Fee shall be paid for each piece of equipment or process proposed, which emits air pollutants and requires filing a NOC, and for certain fee-eligible reviews and determinations as identified in Table 3.3a. The applicant may choose to determine applicable Plan Examination and Inspection Fees based on Rule 3.3 and include payment along with the NOC application, or may elect to have the Agency determine applicable Plan Examination and Inspection Fees during the NOC completeness review, in which case the applicant would be billed. In either case, the NOC application is incomplete until the Agency has received payment of applicable Plan Examination and Inspection Fees. Plan Examination and Inspection Fees shall be determined as follows:~~

(1) One Plan Examination and Inspection Fee shall be paid for each regulatory determination or review item identified in Table 3.3a which applies to the NOC;

(2) One Plan Examination and Inspection Fee shall be paid for each piece of equipment or process which emits air pollutants and requires filing a NOC except for equipment or

processes which can be considered as identical equipment or processes;

~~((3))~~ Equipment or processes may be considered identical provided that they have the same physical specifications and only one examination and/or inspection is required by the Agency;

~~((4))~~ Identical equipment or processes may be accounted for collectively as a single piece of equipment or process subject to a single Plan Examination and Inspection Fee;

~~((5))~~ The Plan Examination and Inspection Fee for a piece of equipment shall be based on the fee amount in Table 3.3a which most closely matches the equipment or process type; and

~~((6))~~ Any fee based on actual cost to the Agency shall be determined according to Rule 3.3(e-);)

(c) Additional NOC Processing Fees. ~~((An))~~ Additional NOC Processing Fees shall be paid ~~((by the applicant for any work identified in Table 3.3b, which has been completed by the Agency for purposes of finalizing review and approval of a NOC-))~~ at a rate of \$80 per hour of direct time expended by agency technical staff in completing any of the fee-eligible items or actions described in Table 3.3b. If required, Additional NOC Processing Fees shall be determined and paid as follows: ((The Agency shall not issue the Final Determination or Order of Approval for any NOC until applicable additional NOC Processing Fees have been paid. The Agency shall determine which additional NOC Processing Fees apply and shall bill an applicant after issuing a Preliminary Determination, but prior to issuing a Final Determination or Approval Order. Additional NOC Processing Fees shall be determined based on the Fee schedule contained in Table 3.3b. Any fee based on actual cost to the Agency shall be determined according to Rule 3.3(e-))

~~Fee amounts in Table 3.3a and Table 3.3b which are based on the Agency's actual cost to complete a review or task shall be determined using the actual direct hours expended completing the specific review or task and the corresponding direct hourly salary rate of each Agency staff person directly involved. The following provisions shall apply:))~~

(1) ~~((Actual hours used in determining the amount of a fee shall be recorded on a daily basis by each Agency staff person directly involved in completing the specific task-))~~ Additional NOC Fees may be assessed periodically as work to complete the fee-eligible items in Table 3.3b incurs, but not more frequently than monthly.

(2) ~~((Time accrued for purposes of determining the amount of a fee for this rule shall be accounted for to the nearest 15 minutes-))~~ All Additional NOC Processing Fees shall be assessed and paid prior to issuing any Final Determination on a NOC application unless an alternative payment plan has been approved by the executive director.

(3) ~~((Current employee salary rates shall be used when calculating actual cost-based fees; and-))~~ Payment of any Additional NOC Processing Fee shall be due no later than thirty (30) days from the date of the invoice unless an alternative payment plan has been approved by the executive director.

(4) ~~((The bill issued for any fee based on the Agency's actual cost shall indicate the total hours expended and the~~

hourly cost rates, which were used to determine the fee.) The director may approve an alternative payment plan provided that the plan is submitted in writing by the applicant.

(5) In computing fees based on hourly rates, only hours of technical staff (Engineer and Air Quality Specialist classifications) attributed directly to completing fee-eligible tasks listed in Table 3.3b shall be used in computing fees.

(6) The total hours used in computing fees shall be based on the agency's official time accounting records.

(7) Invoices shall disclose the number of hours by employee classification that is the basis for any Additional NOC Processing Fee.

(d) **Other Costs.** The following other costs shall be borne by the applicant:

(1) The cost of publishing any required notice.

(2) Consulting cost incurred by the agency in conjunction with approving a NOC application.

(e) **Late Payment Penalties.** ((Payment of all NOC processing fees assessed by the Agency shall be due no later than thirty (30) days from receiving written notification of the fee assessment.)) Failure to pay, in full, any assessed NOC fee ((within thirty (30) days from the)) by the due date as stated on the invoice, ((payment is due)) shall incur a late payment penalty in the amount of 25% of the total amount due.

New Table

Table 3.3a Filing Fees

Fuel Burning Equipment		
Design heat input rate in MMBtu/hr (maximum)	Filing Fee	Base-Fee Hours
Less than 10	\$520	7
10 or more but less than 20	\$700	9
20 or more but less than 50	\$940	12
50 or more but less than 100	\$1,900	24
100 or more	\$3,100	39
Fuel change or new fuel		
Design heat input rate in MMBtu/hr (maximum)	Filing Fee	Base-Fee Hours
Less than 10	\$310	4
10 or more but less than 20	\$400	5
20 or more but less than 50	\$520	7
Design heat input rate in MMBtu/hr (maximum)	Filing Fee	Base-Fee Hours
50 or more but less than 100	\$1,000	13
100 or more	\$1,600	20
Process and Control Equipment		
Cubic feet per minute at design capacity	Filing Fee	Base-Fee Hours
Less than 10,000	\$460	6
10,000 or more but less than 20,000	\$580	7
20,000 or more but less than 50,000	\$760	10
50,000 or more but less than 100,000	\$1,120	14
100,000 or more but less than 250,000	\$2,140	27
250,000 or more	\$3,100	39
Incinerators		
Pounds per day at maximum design capacity	Filing Fee	Base-Fee Hours
Less than 100	\$460	6
100 or more but less than 500	\$760	10

Table 3.3a Filing Fees

500 or more but less than 1,000	\$2,080	26
Refuse Combustion		
Combustion rate in tons per day at design capacity	Filing Fee	Base-Fee Hours
Less than 12	\$3,100	39
12 or more	\$8,500	106
Storage Tanks, Reservoirs and Containers (Other than at retail gasoline dispensing facilities)		
Gallons total capacity	Filing Fee	Base-Fee Hours
6,000 or more but less than 40,000	\$520	7
40,000 or more but less than 100,000	\$1,060	13
100,000 or more but less than 500,000	\$1,600	20
500,000 or more	\$1,780	22
Miscellaneous Air Pollution Sources		
Filing fee based on # of units	Filing Fee	Base-Fee Hours
Spray Painting Operation (per booth)	\$460	6
Dry Cleaner (per machine)	\$340	4
New Gasoline Station	\$460	6
Gasoline Station Upgrade or Modification	\$200	3
Asphalt Plant (initial)	1300	16
Soil Thermal Desorbtion Unit (initial)	\$3,100	39
Odor Source	\$700.00	9
Soil and Groundwater remediation	\$700	9
Autobody	\$460	6
Control Device Replacement or Substantial Alteration	\$200	3
Composter	\$200	3
Rock Crusher (initial)	\$200	3
Other	\$340	4

New Table

Table 3.3b: Additional NOC Processing Fees

Fee-Eligible Item	Description
NOC Application Assistance	Direct technical assistance completing a NOC application, including, but not limited to calculating emissions, filling out standard forms, determining applicable requirements, completing a BACT analysis, performing an air toxics screening analysis pursuant to chapter 173-460 WAC, or selecting monitoring equipment. An NOC Application Assistance fee may only be assessed if the fee rate is disclosed to the applicant and applicant requests such assistance in writing.
Work Exceeding Base-Fee Hours	Direct work attributed to processing a NOC application in excess of the sum of applicable base-fee hours stated in Table 3.3a for each piece of equipment or process subject to a NOC.

Table 3.3b: Additional NOC Processing Fees

Fee-Eligible Item	Description
State Environmental Policy Act (SEPA)	SEPA-related work such as reviewing Environmental Checklists, making threshold determinations, preparing Determinations of Nonsignificance (DNS) and other SEPA-related reports.
Public Noticing	Work directly associated with issuing public notice pursuant to WAC 173-400-171 and Rule 6.1(e) of ORCAA's Regulations. Associated work includes issuing a press release if warranted, copying and posting the written Preliminary Determination for public viewing, and reviewing and responding to comments.
Public Hearing	Work associated with conducting a public hearing including, but not limited to, preparation of summary materials, copying, issuing hearing notice, conducting the hearing, and responding to comments

~~**(Table 3.3a: Plan Examination and Inspection Fees**~~

Description	Fee
100 or more but less than 500	\$550.00
500 or more but less than 1,000	\$1,650.00
Refuse Combustion	Fee based on combustion rate in tons per day at design
Less than 12	\$2,500.00
12 or more	Actual Cost
Storage tanks, reservoirs, or containers other than retail gasoline or diesel fuel dispensing facilities	Fees based on gallons total capacity
6,000 or more but less than 40,000	\$350.00
40,000 or more but less than 100,000	\$800.00
100,000 or more but less than 500,000	\$1,250.00
500,000 or more	\$1,400.00
Spray Painting Operation (per booth)	\$300.00
Dry Cleaner (per machine)	\$200.00
New Gasoline Station	\$300.00
Gasoline Station Upgrade or Modification	\$200.00
Asphalt Plant (initial)	\$1,000.00
Soil Thermal Desorbtion Unit (initial)	\$2,500.00
Odor Source	\$500.00
Soil and Groundwater remediation	\$500.00
Air Toxics Screening Review (chapter 173-460 WAC) (provided by source)	\$200.00
NOC Application Assistance (emission calculations, air toxics screening, etc)	\$300.00
SEPA Threshold Determination	\$300.00
Approval Order Modification	\$100.00
Other (whichever is greater)	\$200.00 or Actual Cost

~~**(Table 3.3a: Plan Examination and Inspection Fees**~~

Description	Fee
Fuel Burning Equipment (new installation)	Fee based on Million-Btu/hr heat input at design capacity
Less than 10	\$350.00
10 or more but less than 20	\$500.00
20 or more but less than 50	\$700.00
50 or more but less than 100	\$1,500.00
100 or more	\$2,500.00
Fuel change or new fuel	1/2 x new installation fee
Emissions from control equipment or from uncontrolled process equipment	Fee based on Actual cubic feet per minute at design capacity
Less than 10,000	\$300.00
10,000 or more but less than 20,000	\$400.00
20,000 or more but less than 50,000	\$550.00
50,000 or more but less than 100,000	\$850.00
100,000 or more but less than 250,000	\$1,700.00
250,000 or more	\$2,500.00
Incineration	Fee based on rate in pounds per hour at design capacity
Less than 100	\$300.00

Table 3.3b: Fee Eligible Items

Fee Eligible Item	Description	Fee
Additional NOC Processing-Fees for Major Sourcees	Additional NOC processing fees shall equal the actual cost of processing the NOC for a Major Sourcee less the NOC fees already paid	Actual Costs
Environmental Impact State-ments	Preparing an Environmental Impact Statement (EIS) in order to comply with the State Environmental Policy Act (SEPA)	Actual Costs
NOC Assistance	Assistance in completing a NOC application including, but not limited to, assistance in calculating emissions, filling out standard forms, determining applicable requirements, completing a BACT analysis, performing an air toxics screening analysis pursuant to chapter 173-460 WAC, and selecting monitoring equipment	Actual Costs
Emission Reduction Credits	Review and approval of emission reduction credits pursuant to WAC 173-400-131	Actual Costs
Voluntary Emissions Limits (Synthetic Minors)	Review and approval of voluntary limits on emissions requests pursuant to Rule 6.1.12 of ORCAA's Regulations	Actual Costs
Alternative Opacity Limits	Review and approval of alternative opacity limit requests pursuant to RCW 70.94.331 (2)(e)	Actual Costs
Public Noticing	Work associated with issuing public notice pursuant to WAC 173-400-171 and Rule 6.1(e) of ORCAA's Regulations. Associated work includes issuing a press release if warranted, copying and posting the written Preliminary Determination for public viewing, and reviewing and responding to comments.	\$350.00
Publishing	Cost of publishing any legal public notices required pursuant to WAC 173-400-171	Actual Cost of publishing
Public Hearing	Work associated with conducting a public hearing including, but not limited to, preparation of summary materials, copying, issuing hearing notice, conducting the hearing, and responding to comments	\$400.00

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Reviser's note: The typographical errors in the above material occurred in the copy filed by the Olympic Region Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 07-10-008

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed April 19, 2007, 10:37 a.m., effective May 20, 2007]

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

Purpose: To implement tolling statutes contained chapters 47.46, 47.56, and 46.63 RCW for operation [of] the toll facilities, and ensure compatibility between transponder-based systems and adoption of an "open standard" for toll technology in Washington state.

Statutory Authority for Adoption: RCW 47.46.105, 46.63.160, 47.56.403.

Adopted under notice filed as WSR 07-02-101 on January 3, 2007.

Changes Other than Editing from Proposed to Adopted Version: There have been no significant changes to these proposed rules being adopted at this time. Several of the proposed rules are not being adopted because they are the subject of pending legislation. Sections that address the toll enforcement process have been temporarily removed pending the outcome of the legislation. Sections that address toll exemptions and promotional rates have been removed because these

topics will be addressed by the appropriate policy setting bodies.

The sections that have been removed are the following: WAC 468-300-803 Are any vehicles exempt from the toll collection provisions of these rules?, 468-300-870 What if I drive through a toll facility lane without paying a toll?, 468-300-872 Who receives the V-Toll bill when the photo enforcement system photographs the vehicle and license plate of a driver who has not paid a required toll?, 468-300-876 What happens if I don't pay the V-Toll amount I owe?, 468-300-878 How and where to I pay my V-Toll bills?, and 468-300-880 Can I appeal my V-Toll?

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 20, 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: April 16, 2007.

John F. Conrad
Assistant Secretary for
Engineering and Regional Operations

BRIDGE AND HIGHWAY TOLL COLLECTIONS IN WASHINGTON STATE

NEW SECTION

WAC 468-300-801 What is the purpose of these rules? The purpose of these rules is to explain how the Washington state department of transportation (WSDOT) will operate its tolling programs including electronic toll collection and enforcement and specifically to:

- (1) Establish a uniform toll collection system for transportation facilities in Washington state;
- (2) Regulate toll collections within the state's uniform toll collection system; and
- (3) To the extent that technology and resources permit, establish an open standard electronic toll collection system using automatic vehicle identification technology (AVI) that is compatible with other toll systems throughout the state and country.

NEW SECTION

WAC 468-300-805 What definitions are important to understanding these rules? The terms "check," "cashiers check," "bank check" and "travelers' checks" used in these toll rules are defined in RCW 62A.3-104 Negotiable instrument. In addition to the check definitions in RCW 62A.3-104, the following definitions are important to understanding these rules:

"Active account" means an open customer account with any balance from which electronic toll payments may be automatically deducted by an electronic toll collection (ETC) system.

"Automatic vehicle identification (AVI) technology" means an electronic toll collection (ETC) system using wireless radio frequency identification (RFID) transponders with readers that automatically identify vehicles as they enter and exit a tolling facility. WSDOT uses a toll collection system based upon AVI technology named "Good To Go!™."

"Closed account" means a customer account that has been closed.

"Closed pending account" means a customer account, which is in the process of being closed at the request of the customer. Closed pending status can be maintained for no more than fifteen days; after fifteen days the customer's account is closed.

"Commission" means the transportation commission appointed by the governor. The commission is responsible for setting toll rates and schedules.

"Customer account" is a prepaid toll account used for electronic toll collection into which customers deposit funds for the automatic, electronic payment of tolls.

"Department" means the Washington state department of transportation (WSDOT).

"Dishonored check" means any check returned to WSDOT by a financial institution for any reason of nonacceptance, nonpayment or stop payment unless a justifiable stop payment order exists.

"Dishonored credit card transaction" means a credit card transaction that is not approved by the entity that issued the credit card.

"Dynamic toll pricing" means varying the toll rate charged to toll customers to maintain specific performance standards of traffic management.

"Electronic toll collection (ETC) lane" means a lane in which the electronic toll collection system will read the transponder of each vehicle and automatically collect the toll without requiring the vehicle to slow its speed or stop.

"Good To Go!™" is the name of the department's electronic toll collection system.

"Good To Go!™ contract" means the terms and conditions noted on the back of the "Good To Go!™" customer application and to which the customer agrees by opening a customer account.

"Good To Go!™ customer" means a toll customer who participates in the department's "Good To Go!™" toll collection system.

"High occupancy vehicle" means a public agency bus or vanpool or a carpool vehicle with minimum occupancy requirements that may vary from two to four persons depending upon the posted roadway HOV signage.

"High-occupancy toll (HOT) lanes" means one or more lanes of a highway that charges tolls as a means of regulating access to or the use of the lanes in order to maintain travel speed and reliability. HOT lane supporting facilities include, but are not limited to, approaches, enforcement areas, improvements, buildings, and equipment.

"Inactive account" means a customer account that has had no toll transaction activity during the twenty-four-month period, which begins with the date of the customer's last transaction.

"Insufficient funds account" means an ETC customer's account with a balance less than the single toll rate in effect for the highest class of vehicle registered under the account at the time the customer's electronic toll transaction is processed.

"Insufficient funds account—Private unregistered accounts" means an ETC customer's private unregistered account with a balance less than the single toll rate in effect for Class 2 (i.e., two axle) vehicles at the time the electronic toll transaction is processed.

"Independent toll collection company" means a vendor who contracts with WSDOT to collect and process tolls.

"Low balance account" means a customer account with a balance equal to two times the toll rate normally paid by the customer or less.

"Manual payment toll customer" means a toll customer who manually pays their toll at a tollbooth.

"Notice of nonsufficient funds (NSF)" means the notice sent to a toll customer who presented a nonsufficient funds check to WSDOT in payment of any toll transaction. This notice will be mailed to the toll customer at the address noted on the check returned from the financial institution.

"Notice of dishonored credit card transaction" means a transaction authorized by a toll customer that is not honored by the financial institution for any reason except for the existence of a stop payment order.

"Person" means an individual, firm, partnership, corporation, or association.

"Photo monitoring system" means a system where a sensor, working in conjunction with an electronic toll collection system, is installed in the toll lanes to produce an automatic image of the vehicle and the vehicle license plate as it passes through the toll facility. The photo monitoring system may produce:

- (1) One or more photographs;
- (2) One or more microphotographs;
- (3) A videotape; or
- (4) Any other recorded images that capture each vehicle that passes through the toll facility.

No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than toll enforcement, nor retained longer than necessary to verify that tolls are paid, or to enforce toll evasion violations.

"Pilot project" means a Washington state department of transportation project that serves as a tentative model for future department transportation projects.

"Prepaid account" means an open "Good To Go!™" customer account with a balance in excess of any minimum balance requirements.

"Shoulder hours" means the hours bracketing the weekday morning and afternoon peak commute hours.

"Toll collection system" means any system that identifies a correct toll and collects its payment. A toll collection system may include manual cash collection, electronic toll collection, and a photo monitoring system.

"Toll customer" means someone who passes through a toll facility and is required to pay a toll electronically, manually or according to a video toll (V-Toll) system.

"Toll transportation facility" means a facility whose purpose is to collect and process WSDOT tolls and detect and process toll violations. A toll facility includes all traffic, bridge lanes requiring tolls and any related tollbooths and operation buildings.

"Transportation systems and facilities" means any capital-related investments and additions to the state's transportation infrastructure, including but not limited to highways, roads, bridges, vehicles, and equipment, marine-related facilities, vehicles, and equipment, park and ride lots, transit stations and equipment, transportation management systems, and other transportation-related investments.

"Transponder" means a radio frequency identification (RFID) unit attached to a toll customer's vehicle that transmits a radio signal to a reader mounted in the toll facility. The purpose of the transponder is to automatically identify

the toll customer's vehicle as it passes through the toll facility.

"Variable pricing" means varying the toll rate by time of day or level of traffic congestion.

"Video-toll" or "V-Toll" is an alternative method of toll collection from a "Good to Go!™" account holder. If a "Good to Go!™" account holder uses the toll facility but does not pay the toll because his or her transponder is not properly mounted on the account holder's registered vehicle a photo-monitoring system captures the vehicle's license plate and the toll will be posted to the "Good to Go!™" account.

NEW SECTION

WAC 468-300-808 What toll paying methods are available on WSDOT toll facilities? The following toll paying methods are available on WSDOT toll facilities:

(1) **HOT LANES ONLY:** All vehicles that are required to pay a toll must have an active "Good To Go!™" transponder and account to enable you to pay by electronic toll collection (ETC) via the transponder mounted on your windshield.

(2) **OTHER TOLL FACILITIES:** When you use the Tacoma Narrows Bridge or other WSDOT toll facilities you have two payment options:

(a) **ETC payment:** This electronic toll payment option uses your "Good To Go!™" account in the ETC lanes. This allows you to drive through the toll facility, using the ETC lanes, at regular traffic speed;

(b) **Manual payment:** This payment option requires that you manually pay your toll using cash or a credit or labeled debit card in the manual payment lanes at a tollbooth facility. This option also requires you to stop your vehicle at the tollbooth facility (only on TNB).

NEW SECTION

WAC 468-300-810 Who collects the tolls charged on WSDOT toll roads and bridges? (1) To ensure that tolls at all WSDOT toll facilities are collected in a timely, effective and efficient manner, WSDOT may contract with one or more independent toll collection companies to manage the day-to-day toll collection activities at its various toll facilities.

(2) All toll related revenues collected by any independent toll collection company through WSDOT are payable to the state of Washington.

(3) Although the WSDOT may contract with independent toll collection companies to manage the day-to-day toll collection activities at its toll projects, WSDOT retains ultimate oversight authority for all toll collection operations at those facilities.

NEW SECTION

WAC 468-300-820 What is a "Good To Go!™" toll collection system? (1) "Good To Go!™" is the trademark name for WSDOT's electronic toll collection (ETC) system. This ETC system uses an electronic transmission from a transponder mounted in a toll customer's motor vehicle to record the toll charge and then debit the toll customer's account with an appropriate toll as the customer's vehicle passes through

the toll facility at regular speed with no need for slowing or stopping.

(2) The purpose of such an electronic toll collection system is to help manage highway and/or bridge traffic through a toll facility.

Note: To maximize the effectiveness of electronic toll collection technology, WSDOT encourages anyone who regularly travels through a WSDOT toll facility to sign up and participate in the department's "Good To Go!TM" system.

NEW SECTION

WAC 468-300-822 Is the WSDOT electronic toll collection (ETC) system compatible with electronic payment methods used by other transportation systems? (1) At the time ETC was first implemented in the United States, automatic vehicle identification (AVI) technology in general was not interoperable;

(2) To the extent that technology and resources permit, WSDOT's electronic toll collection system will use AVI devices that are:

(a) Compatible with:

(i) Other electronic payment devices; or

(ii) Transponders from the Washington state ferry system, other public transportation systems or other toll collection systems; and

(b) Provided by multiple vendors.

(3) WSDOT is committed to ensuring that its electronic toll collection system is customer friendly, cost-effective and compatible (interoperable) with electronic payment devices and/or methods used by other transportation systems. Therefore, using criteria like the following, WSDOT will regularly review its tolling technology and may change its toll collection methods to ensure customer convenience and toll collection efficiency at a reasonable cost:

(a) Open road (nonstop) electronic toll collection capability;

(b) Cost of transponders to customers;

(c) Ability to meet department operational and accuracy standards; and

(d) Compatibility with other electronic toll collection technologies that are in use or are emerging.

NEW SECTION

WAC 468-300-824 Will commercial vehicles using the CVISN program need a special transponder to use WSDOT toll facilities? WSDOT will install readers at all toll sites that will accept electronic toll payments from any commercial vehicle participating in the Washington state electronic weigh state bypass (CVISN) program.

A CVISN participant must open an active "Good To Go!TM" account to use this service.

NEW SECTION

WAC 468-300-826 What is "dynamic toll pricing?" Dynamic toll pricing is a toll pricing method that changes based upon live traffic conditions, to maximize the performance of the tolled facility. For example, in a HOT lane the toll rate charged to enter the lane will be lower when more

lane space is available, and higher when less lane space is available.

NEW SECTION

WAC 468-300-828 What is the purpose of the department's State Route 167 high-occupancy toll (HOT) lanes pilot project? (1) In chapter 47.56 RCW, the legislature authorized WSDOT to establish, construct and operate a HOT lane pilot project on State Route 167 within King County. The purpose of the project is to help determine if HOT lanes can more efficiently move people and vehicles within the SR 167 corridor by allowing drivers of single occupant vehicles, who pay a toll, to use SR 167 HOV lanes when excess capacity exists.

(2) At a minimum, the pilot project must comply with the following requirements:

(a) **The commission:**

- Will establish the schedule of toll charges for high-occupancy toll (HOT) lanes and determine the manner in which the charges are collected.

- Will not assess HOT lane toll charges on high occupancy vehicles.

- May use dynamic pricing to vary HOT lane toll charges by time of day, level of traffic congestion within the highway facility, vehicle occupancy, or other criteria that the commission deems appropriate.

- May vary HOT lane toll charges for single-occupant inherently low-emission vehicles, such as those powered by electric batteries, natural gas, propane, or other clean burning fuels.

- Will periodically review HOT lane toll charges to determine if they are effectively maintaining travel time, speed, and reliability on the highway facilities.

- Will remove the HOT lane toll charges four years after toll collection begins, unless reauthorized by the Washington state legislature.

(b) **The department:**

- Will, if necessary, automatically adjust HOT lane toll charges, using dynamic tolling, to limit toll-paying single-occupant vehicle users access to the HOT lanes in order to maintain average HOT lane vehicle speeds above forty-five miles per hour, at least ninety percent of the time during peak hours.

- Will monitor the pilot project and annually report to the commission and the legislature on operations and findings.

- Will modify the pilot project, if necessary, to address identified safety issues and mitigate negative impacts to high-occupancy vehicle lane users.

- Will adopt rules allowing the automatic vehicle identification transponders used for electronic toll collection on the pilot project to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology and resources permit.

(3) A violation of the pilot project's high-occupancy toll lane restrictions is a traffic infraction.

NEW SECTION

WAC 468-300-830 How can I open a "Good To Go!™" customer account and use the electronic toll collection lanes? To open a "Good To Go!™" customer account, you must complete the "Good To Go!™" account application and prepay at least the minimum fund balance into the account.

Note: The "Good To Go!™" customer contract contains a full explanation of the terms and conditions associated with the WSDOT "Good To Go!™" toll collection program.

NEW SECTION

WAC 468-300-832 What types of "Good To Go!™" customer accounts are available? The following table identifies and describes the various "Good To Go!™" customer accounts that are available:

Type of Account:	Description:
(1) Private registered	A prepaid "Good To Go!™" account that: <ul style="list-style-type: none"> Is for a private party (not a business entity); Includes customer-identifying information. May be charged for cost of transponder.
(2) Private unregistered	A prepaid "Good To Go!™" account that: <ul style="list-style-type: none"> Is for a private party (not a business entity); and Does not include customer-identifying information. Private unregistered account customers are anonymous. May be charged for cost of transponder.
(3) Commercial pre-paid	A "Good To Go!™" account that:

Type of Account:	Description:
	<ul style="list-style-type: none"> Must be in a business name, which may be a person; Must have a business contact listed on the account; and May be charged for cost of transponder.

NEW SECTION

WAC 468-300-834 Do I need to establish a separate "Good To Go!™" account for each "Good To Go!™" toll road or bridge that I use? If you are using a "Good To Go!™" transponder issued by any "Good To Go!™" toll facility operator, you may use any "Good To Go!™" toll facility without establishing a separate toll account.

NEW SECTION

WAC 468-300-840 What is a customer service center (CSC)? (1) CSCs are established for "Good To Go!™" toll projects to:

- (a) Provide tolling information to current and prospective "Good To Go!™" toll customers;
 - (b) Enroll toll customers into the department's "Good To Go!™" program;
 - (c) Accept "Good To Go!™" payments from customers; and
 - (d) Provide other customer related services as needed.
- (2) WSDOT may contract with an independent toll collection company to operate a CSC.
- (3) To learn the location of a CSC near you and how it operates, please call 1-866-WDOT2GO (1-866-936-8246) or go on-line at wsdot.wa.gov/goodtogo.

NEW SECTION

WAC 468-300-850 What toll payment methods are available to "Good To Go!™" customers? The following table describes the payment methods available to "Good To Go!™" customers:

Forms of payment acceptable for "Good To Go!™" account replenishment fees	Payment options available to walk-in customers	Mail-in payment options available	Telephone and fax payment options available	On-line payment options available	Automatic account replenishment payment options available
Cash and cash-equivalents (U.S. currency only):					
U.S. coin and currency	Yes	No	No	No	No
Personal checks	Yes	Yes	No	No	No
Business checks	Yes	Yes	No	No	No
Travelers checks	Yes	Yes	No	No	No
Bank checks	Yes	Yes	No	No	No
Money orders	Yes	Yes	No	No	No
Vouchers	Yes	No	No	No	No

Forms of payment acceptable for "Good To Go! TM " account replenishment fees	Payment options available to walk-in customers	Mail-in payment options available	Telephone and fax payment options available	On-line payment options available	Automatic account replenishment payment options available
Forms of payment other than cash and cash-equivalents (U.S. currency only):					
Credit cards (Master Card, VISA, Discover, American Express)	Yes	Yes	Yes	Yes	Yes
Labeled debit cards (no pin)	Yes	Yes	Yes	Yes	Yes
Unlabeled debit cards (with pin)	Yes	No	No	No	No
Electronic Benefit Transfer	Yes	No	No	No	No
Automated Clearing House	Yes	Yes	Yes	No	Yes

NEW SECTION

WAC 468-300-852 How can my customer account be closed? Your account may be closed by:

- (1) **Customer request.**
- (2) **Automatic closure:** Your account may be automatically closed:
 - (a) After twenty-four months of showing no account activity; or
 - (b) After one day of showing a zero balance; or
 - (c) Immediately upon showing a negative balance.

NEW SECTION

WAC 468-300-853 If my registered account is closed, am I entitled to a refund? Refunds may be obtained upon closure of your registered account according to the procedures and circumstances listed in the table below. Refunds shall be in the form of original payment, when possible. For example, if deposit was made by credit card, the refund would be a credit to the same credit card.

If:	Then:
(1) Your account is changed to "closed pending" status either by your request, or automatically, by twenty-four months of inactivity:	A refund will be distributed to you within fifteen days after any outstanding toll charges are paid.
(2) You visit a customer service center and request that your account be closed:	Any cash or credit card refunds due to you will be distributed to you within fifteen days after the day that you requested that your account be closed.
(3) You request and complete refund form and return it to the customer service center.	Any refunds due you will be processed and distributed to you within fifteen days from the date WSDOT received your completed request.
(4) You request a refund for disputed charges:	(a) Your request will be submitted to WSDOT for approval.

If:	Then:
	(b) If WSDOT approves your requested refund, it will be processed and distributed to you within fifteen days from the date your request was approved.

NEW SECTION

WAC 468-300-854 What toll payment methods are available to manual toll customers? The following table describes the forms of toll payments available to **manual toll customers** and the conditions under which toll collectors will accept those payments:

Accepted Form of Toll Payment:	Accepted Only In:
U.S. coin and currency	Staffed toll lanes and exact change lanes
Credit cards (Master Card, VISA, Discover, American Express)	Enabled toll lanes
Labeled debit cards (no pin)	Enabled toll lanes
Regional fare coordination system (RFCS) fare media (smart cards) from the Washington state ferry system and the regional transportation systems of Pierce, King, Snohomish and Thurston counties	Enabled toll lanes when implemented
Other noncash instruments authorized by the department	Enabled toll lanes

NEW SECTION

WAC 468-300-860 What administrative fees may apply to WSDOT toll customers? The following table lists and explains the administrative fees that a toll customer may have to pay:

What customer services result in administrative fees being charged?	When is the administrative fee charged?	The amount of each administrative fee listed in this table is established in the "Good To Go!™" customer contract
Mailing paper copies of "Good To Go!™" private registered account statements	Private registered accounts will be assessed a fee for each paper statement mailed.	\$1.50 per each statement mailed
Mailing paper copies of "Good To Go!™" commercial account statements beyond the regularly provided quarterly statement	Commercial customer accounts will be assessed a statement fee for each paper statement mailed in excess of the regular quarterly statement.	\$.50 per page
Reprinting copies of "Good To Go!™" statements for "private registered accounts"	When a "Good To Go!™" customer requests that a reprint of a previous account statement be mailed to them.	\$1.50 per each mailed reprinted statement
Processing nonsufficient fund (NSF) checks	Each time WSDOT receives notice of a NSF check.	Current fee rate for each nonsufficient check
Account collection fee	WSDOT will assess a collection fee when a toll customer's account is turned over to a collection agency.	Amount designated by the collection agency per each account
Closing an inactive "Good To Go!™" account	When a "Good To Go!™" customer account has not been used for twenty-four consecutive months. This monthly service fee will be assessed until the: (1) Customer's account balance drops below the lowest class toll rate in effect during the time the account is inactive; or (2) Customer requests that their account be closed; or (3) Customer reactivates their account by using it to pay a toll.	Inactive closing fee \$5.00
Replacing a transponder	"Good To Go!™" customers may be required to purchase a replacement transponder if it is lost, stolen or damaged.	Cost of transponder

NEW SECTION

WAC 468-300-862 What administrative services are provided to WSDOT toll customers without charge? The WSDOT provides the following administrative services to WSDOT toll customers without charge:

- (1) Electronic statements are free and are automatically available to "Good To Go!™" customers at wsdot.wa.gov/goodtogo;
- (2) Paper statements, including reprints, may be provided without charge to customer service center walk-in customers upon request;
- (3) The interactive voice response (IVR) system provides previous day account balance information and information regarding the last ten account transactions and the last five payments to call-in customers without charge at 1-866-WDOT2GO or 1-866-936-8246; and
- (4) Customer service representatives will provide account balance information to call-in customers without charge.

NEW SECTION

WAC 468-300-890 How does WSDOT process dishonored checks and dishonored credit card transactions? The process for handling dishonored checks and dishonored credit card transactions described in this section is based upon WAC 468-20-900 (Dishonored checks).

**WSR 07-10-013
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed April 20, 2007, 8:22 a.m., effective May 21, 2007]

Effective Date of Rule: Thirty-one days after filing.
 Purpose: RCW 41.32.4851 and 41.40.1984 provide a minimum allowance to qualifying retirees of the teachers' retirement system (TRS) and the public employees' retirement system (PERS). SB 6453 of 2006 changed the statute so that the minimum allowance now increases by 3% on July

1 of each year, and eligibility is extended to PERS and TRS Plan 1 retirees with twenty or more years of service credit who have been retired at least twenty-five years. The department is proposing amendments that reflect these changes.

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-805 and 415-112-555.

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 06-21-004 on October 5, 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 2, Repealed 0.

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

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

Date Adopted: April 19, 2007.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 04-20-004, filed 9/23/04, effective 10/24/04)

WAC 415-112-555 What is the TRS Plan 1 (~~"adjusted"~~) minimum (~~"benefit"~~) allowance? (~~RCW 41.32.4851 entitles certain TRS Plan 1 retirees and beneficiaries to a minimum benefit of one thousand dollars, adjusted by the same actuarial reduction factors as were used to calculate their benefit at the time of retirement; or for beneficiaries, at the time benefit payments commenced.~~

(1) ~~Do I qualify for the adjusted minimum benefit?~~

~~(a) Except as provided in (b) of this subsection:~~

~~(i) You qualify if you are a TRS Plan 1 retiree and you:~~

~~(A) Have at least twenty-five years of TRS service credit;~~

~~(B) Have been retired at least twenty years; and~~

~~(C) Have a current retirement benefit, including adjustments, that is less than the amount of the adjusted minimum benefit.~~

~~(ii) You qualify if you are a TRS Plan 1 member's beneficiary, as defined in RCW 41.32.010 (5)(a), and:~~

~~(A) The member had at least twenty-five years of TRS service credit;~~

~~(B) The member and/or beneficiary have been receiving benefits for at least twenty years; and~~

~~(C) Your current retirement benefit, including adjustments, is less than the amount of the adjusted minimum benefit.~~

~~(b) You do not qualify if you are receiving a temporary disability benefit under RCW 41.32.540.~~

~~(2) How is the amount of the adjusted minimum benefit calculated?~~ The benefit calculation starts with one thousand dollars and is adjusted by the same factors that were used to calculate the benefit at the time of retirement.

~~(3) What factors are used to calculate the amount of the adjusted minimum benefit?~~ The factors used to calculate the minimum benefit are:

~~(a) Annuity withdrawal;~~

~~(b) Early retirement;~~

~~(c) Automatic cost-of-living (COLA) increases chosen at retirement;~~

~~(d) Joint survivor option chosen at retirement;~~

~~(e) Extra contributions made by the member;~~

~~(f) Survivor percentage. See Example 2 in this subsection.~~

~~Example 1: At the time of retirement, Bill withdrew his contributions and chose a joint and 50% survivor option, with Betty as his beneficiary. The \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, as follows:~~

((Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Bill's adjusted minimum benefit	(\$731.00))

~~Example 2: Betty is Bill's beneficiary. After Bill's death, Betty receives 50% of the amount of his benefit. For Betty, the \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, and also by the survivor percentage (50%) chosen at the time of Bill's retirement:~~

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Retiree's adjusted minimum benefit as calculated in Example 1	\$731.00
Survivor percentage (which, in this case, is 50% because of the survivor option selected at the time of retirement)	-\$365.50
Betty's adjusted minimum benefit	\$365.50

~~See WAC 415-02-300 through 415-02-380 for the tables, schedules, and factors the department uses to calculate benefits.~~

~~(4) If the adjusted minimum benefit is less than my current benefit, will my benefit be reduced?~~ No, the department will compare the amount of the adjusted minimum benefit to your current benefit. You will always receive the higher of the two benefits.

~~(5) If I qualify for the adjusted minimum benefit, when will I begin to receive the higher benefit?~~

~~(a) If you meet the requirements as of July 1, 2004, you will begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of July 2004.~~

(b) If you qualify after July 1, 2004, you will automatically begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of the month in which you qualify.

~~(6) Will I continue to get cost of living increases (COLAs) if I receive the adjusted minimum benefit?~~ No. Under the provisions of RCW 41.32.4851, the adjusted minimum benefit will not be adjusted for COLAs.

~~(7) How long will I continue to receive the adjusted minimum benefit?~~ You will receive the adjusted minimum benefit until your original retirement benefit, plus on-going

adjustments, exceeds the adjusted minimum benefit. At that time you will automatically start receiving the higher benefit.

Example: Joe retired with a survivor option, requiring an actuarial reduction of his monthly benefit (87% of full allowance). He received a 3% COLA each year. In 2004, Joe's retirement benefit was \$806.25. The following table shows how his benefit is compared to the adjusted minimum benefit from 2004 through 2008.

	Regular Benefit (including COLAs)	Adjusted Minimum Benefit (Fixed - No COLAs added)	Actual Amount Joe Received
2004	\$806.25 (benefit + COLAs)	\$870 (\$1,000 x .87)	\$870
2005	\$830.44 (\$806.25 + COLA)	\$870 (\$1,000 x .87)	\$870
2006	\$855.35 (\$830.44 + COLA)	\$870 (\$1,000 x .87)	\$870
2007	\$881.01 (\$855.35 + COLA)	No longer applicable	\$881.01
2008	\$907.44 (\$881.01 + COLA)	No longer applicable	\$907.44

This example assumes a three percent annual COLA.) RCW 41.32.4851 entitles certain TRS Plan 1 retirees and beneficiaries to a minimum monthly allowance. Subsection (3) of this section provides the amount of the minimum allowance and explains how it may be adjusted.

(1) Do I qualify for the minimum allowance? Except as provided in subsection (2) of this section:

(a) You qualify if your current monthly allowance, excluding any amount you receive for an additional (optional) annuity based on extra contributions, is less than the minimum allowance calculated under subsection (3) of this section, and:

- (i) You have twenty-five or more years of TRS Plan 1 service credit and have been retired at least twenty years; or
- (ii) You have twenty or more years of TRS Plan 1 service credit and have been retired at least twenty-five years.

(b) You qualify if you are a TRS Plan 1 member's survivor beneficiary under WAC 415-112-504 and your current monthly allowance is less than the minimum allowance calculated under subsection (3) of this section, provided:

- (i) The member had twenty-five or more years of TRS Plan 1 service credit and retired at least twenty years ago; or
- (ii) The member had twenty or more years of TRS Plan 1 service credit and retired at least twenty-five years ago.

(2) Do I qualify if I am receiving a temporary disability benefit? You do not qualify to receive the minimum

allowance provided by this rule if you are currently receiving a temporary disability benefit under RCW 41.32.540.

(3) How much is the minimum allowance in RCW 41.32.4851, and how is it adjusted?

(a) **Minimum allowance.** The minimum allowance prior to July 1, 2006, was \$1000. On July 1, 2006, and each July 1 thereafter, the minimum allowance increases by three percent, rounded to the nearest cent.

(b) **Adjustment.** The minimum allowance in (a) of this subsection will be adjusted each July by the same factors that were otherwise used in the calculation of your monthly allowance, including, but not limited to:

- (i) Annuity withdrawal;
- (ii) Early retirement;
- (iii) Automatic cost-of-living (COLA) increases chosen at retirement;
- (iv) Joint survivor option chosen at retirement;
- (v) Survivor percentage. See Example 2 in this subsection.

Example 1: Bob retired in August 1986 with twenty-five years of service credit. Bob chose benefit option three, so that his wife, Betty, would receive a monthly allowance equal to 50% of his allowance after his death. In August 2006, Bob became eligible for the minimum allowance, calculated as follows:

Minimum allowance in August 2006 =		\$1,030.00
Minimum allowance, actuarially reduced for benefit option three	\$1,030 x 0.87 (benefit option factor based on the difference in age between Bob and Betty) =	\$896.10

Example 2: When Bob died in August 2009, Betty's allowance was calculated using the minimum allowance in effect on the date of Bob's death. The minimum allowance was adjusted by the same factors used to calculate Bob's allowance at retirement and also by the survivor percentage (50%) chosen when Bob retired.

Minimum allowance in August 2009	(includes a 3% per year increase)	\$1,125.51
Actuarially reduced for benefit option three =	\$1,125.51 x 0.87 =	\$979.19
Betty's adjusted minimum allowance	(50% of the allowance Bob was receiving)	\$489.60

The tables, schedules, and factors the department currently uses to calculate benefits are located in WAC 415-02-300 through 415-02-380. However, factors have changed over time, and your minimum allowance will be adjusted using the same factors that were used to calculate your current monthly allowance.

(4) If the minimum allowance is less than my current monthly allowance, will my monthly allowance be reduced? The department will compare the amount of the minimum allowance calculated under subsection (3) of this section with your current monthly allowance. You will always receive the higher of the two benefits.

(5) If I qualify for the minimum allowance, when will I begin to receive it?

(a) If your eligibility is based on meeting the requirements of subsection (1)(a)(i) or (b)(i) of this section, and:

(i) You were eligible on July 1, 2004, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2004.

(ii) You become eligible after July 1, 2004, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

Example:

	<u>Regular Allowance (including COLAs and other eligible adjustments)</u>	<u>Adjusted Minimum Allowance</u>	<u>Actual Amount Paid</u>
<u>July 1, 2006</u>	\$882.38 (allowance + COLAs)	\$896.10 (\$1,030 x .87)	\$896.10
<u>July 1, 2007</u>	\$914.63 (\$882.38 + COLA)	\$922.98 (\$1,060.90 x .87)	\$922.98
<u>July 1, 2008</u>	\$946.88 (\$914.63 + COLA)	\$950.67 (\$1,092.73 x .87)	\$950.67
<u>July 1, 2009</u>	\$979.13 (\$946.88 + COLA)	\$979.19 (\$1,125.51 x .87)	\$979.19
<u>July 1, 2010</u>	\$1,011.38 (\$979.13 + COLA)	\$1,008.57 (\$1,159.28 x .87)	\$1,011.38 (reverts to regular allowance including COLAs)

(b) If your eligibility is based on meeting the requirements of subsection (1)(a)(ii) or (b)(ii) of this section, and:

(i) You were eligible on July 1, 2006, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2006.

(ii) You become eligible after July 1, 2006, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

(6) Will I receive cost-of-living adjustments (COLAs)? You will not receive the uniform COLA (based on your years of service credit) while you are receiving the minimum allowance.

(7) How long will I continue to receive the minimum allowance? You will receive the minimum allowance calculated under subsection (3) of this section for your lifetime or until your regular retirement allowance, plus COLAs and other eligible adjustments, exceeds your minimum allowance. At that time you will automatically start receiving the higher benefit.

AMENDATORY SECTION (Amending WSR 04-20-004, filed 9/23/04, effective 10/24/04)

WAC 415-108-805 What is the PERS Plan 1 ("adjusted") minimum ("benefit") allowance? (RCW 41.40.1984 entitles certain PERS Plan 1 retirees and beneficiaries to a minimum benefit of one thousand dollars, adjusted by the same actuarial reduction factors as were used to calculate their benefit at the time of retirement; or for beneficiaries, at the time benefit payments commenced.

(1) Do I qualify for the adjusted minimum benefit?

(a) Except as provided in (b) of this subsection:

(i) You qualify if you are a PERS Plan 1 retiree and you:

(A) Have at least twenty-five years of PERS service credit;

(B) Have been retired at least twenty years; and

(C) Have a current retirement benefit, including adjustments, that is less than the amount of the adjusted minimum benefit.

(ii) You qualify if you are a PERS Plan 1 member's beneficiary, as defined in RCW 41.40.010 (14)(a), and:

(A) The member had at least twenty-five years of PERS service credit;

(B) The member and/or beneficiary have been receiving benefits for at least twenty years; and

(C) Your current retirement benefit, including adjustments, is less than the amount of the adjusted minimum benefit.

(b) You do not qualify if you are a retiree or beneficiary who receives a duty disability retirement allowance under RCW 41.40.220(1) or a statewide cities employee's retirement duty disability retirement allowance under RCW 41.44.170 (3) or (5).

(2) How is the amount of the adjusted minimum benefit calculated? The benefit calculation starts with one thousand dollars and is adjusted by the same factors that were used to calculate the benefit at the time of retirement.

(3) What factors are used to calculate the amount of the adjusted minimum benefit? The factors used to calculate the minimum benefit are:

(a) Annuity withdrawal;

(b) Early retirement;

(c) Automatic cost of living (COLA) increases chosen at retirement;

(d) Joint survivor option chosen at retirement;

(e) Extra contributions made by the member;
 (f) Survivor percentage. See Example 2 in this subsection.

Example 1: At the time of retirement, Bill withdrew his contributions and chose a joint and 50% survivor option, with Betty as his beneficiary. The one thousand dollar minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, as follows:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Bill's adjusted minimum benefit	\$731.00

Example 2: Betty is Bill's beneficiary. After Bill's death, Betty receives 50% of the amount of his benefit. For Betty, the \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, and also by the survivor percentage (50%) chosen at the time of Bill's retirement:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Retiree's adjusted minimum benefit as calculated in Example 1	\$731.00
Survivor percentage (which, in this case, is 50% because of the survivor option selected at the time of retirement)	-\$365.50
Betty's adjusted minimum benefit	\$365.50

	Regular Benefit (including COLAs)	Adjusted Minimum Benefit (Fixed - No COLAs added)	Actual Amount Joe Received
2004	\$806.25 (benefit + COLAs)	\$870 (\$1,000 x .87)	\$870
2005	\$830.44 (\$806.25 + COLA)	\$870 (\$1,000 x .87)	\$870
2006	\$855.35 (\$830.44 + COLA)	\$870 (\$1,000 x .87)	\$870
2007	\$881.01 (\$855.35 + COLA)	No longer applicable	\$881.01
2008	\$907.44 (\$881.01 + COLA)	No longer applicable	\$907.44

This example assumes a three percent annual COLA.)) RCW 41.40.1984 entitles certain PERS Plan 1 retirees and beneficiaries to a minimum monthly allowance. Subsection (3) of this section provides the amount of the minimum allowance and explains how it may be adjusted.

(1) Do I qualify for the minimum allowance? Except as provided in subsection (2) of this section:

(a) You qualify if your current monthly allowance, excluding any amount you receive for an additional (optional) annuity based on extra contributions, is less than the minimum allowance calculated under subsection (3) of this section, and:

(i) You have twenty-five or more years of PERS Plan 1 service credit and have been retired at least twenty years; or

See WAC 415-02-300 through 415-02-380 for the tables, schedules, and factors the department uses to calculate benefits.

(4) If the adjusted minimum benefit is less than my current benefit, will my benefit be reduced? No, the department will compare the amount of the adjusted minimum benefit to your current benefit. You will always receive the higher of the two benefits.

(5) If I qualify for the adjusted minimum benefit, when will I begin to receive the higher benefit?

(a) If you meet the requirements as of July 1, 2004, you will begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of July 2004.

(b) If you qualify after July 1, 2004, you will automatically begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of the month in which you qualify.

(6) Will I continue to get cost of living increases (COLAs) if I receive the adjusted minimum benefit? No. Under the provisions of RCW 41.40.1984, the adjusted minimum benefit will not be adjusted for COLAs.

(7) How long will I continue to receive the adjusted minimum benefit? You will receive the adjusted minimum benefit until your original retirement benefit, plus on-going adjustments, exceeds the adjusted minimum benefit. At that time you will automatically start receiving the higher benefit.

Example: Joe retired with a survivor option, requiring an actuarial reduction of his monthly benefit (87% of full allowance). He received a 3% COLA each year. In 2004, Joe's retirement benefit was \$806.25. The following table shows how his benefit is compared to the adjusted minimum benefit from 2004 through 2008.

(ii) You have twenty or more years of PERS Plan 1 service credit and have been retired at least twenty-five years.

(b) You qualify if you are a PERS Plan 1 member's survivor beneficiary under WAC 415-108-326 and your current monthly allowance is less than the minimum allowance calculated under subsection (3) of this section, provided:

(i) The member had twenty-five or more years of PERS Plan 1 service credit and retired at least twenty years ago; or
 (ii) The member had twenty or more years of PERS Plan 1 service credit and retired at least twenty-five years ago.

(2) Do I qualify if I receive a duty disability allowance? You do not qualify to receive the minimum allowance provided by this rule if you are a:

(a) Retiree currently receiving a duty disability retirement allowance under RCW 41.40.220(1);

(b) Retiree currently receiving a statewide city employees' retirement system duty disability retirement allowance under RCW 41.44.170(3); or

(c) Beneficiary currently receiving an allowance under RCW 41.44.170(5).

(3) How much is the minimum allowance in RCW 41.40.1984, and how is it adjusted?

(a) **Minimum allowance.** The minimum allowance prior to July 1, 2006, was \$1000. On July 1, 2006, and each July 1 thereafter, the minimum allowance increases by three percent, rounded to the nearest cent.

(b) **Adjustment.** The minimum allowance in (a) of this subsection will be adjusted each July by the same factors that

were otherwise used in the calculation of your monthly allowance, including, but not limited to:

- (i) Early retirement;
- (ii) Automatic cost-of-living (COLA) increases chosen at retirement;
- (iii) Benefit option chosen at retirement (see WAC 415-108-326);
- (iv) Survivor percentage. See Example 2 in this subsection.

Example 1: Bob retired in August 1986 with twenty-five years of service credit. Bob chose benefit option three, so that his wife, Betty, would receive a monthly allowance equal to 50% of his allowance after his death. In August 2006, Bob became eligible for the minimum allowance, calculated as follows:

Minimum allowance in August 2006 =		\$1,030.00
<u>Minimum allowance, actuarially reduced for benefit option three</u>	$\$1,030 \times 0.87$ (benefit option factor based on the difference in age between Bob and Betty) =	<u>\$896.10</u>

Example 2: When Bob died in August 2009, Betty's allowance was calculated using the minimum allowance in effect on the date of Bob's death. The minimum allowance was adjusted by the same factors used to calculate Bob's allowance at retirement and also by the survivor percentage (50%) chosen when Bob retired.

Minimum allowance in August 2009	(includes a 3% per year increase)	\$1,125.51
Actuarially reduced for benefit option three =	$\$1,125.51 \times 0.87 =$	\$979.19
<u>Betty's adjusted minimum allowance</u>	(50% of the allowance Bob was receiving)	<u>\$489.60</u>

The tables, schedules, and factors the department currently uses to calculate benefits are located in WAC 415-02-300 through 415-02-380. However, factors have changed over time, and your minimum allowance will be adjusted using the same factors that were used to calculate your current monthly allowance.

(4) If the minimum allowance is less than my current monthly allowance, will my monthly allowance be reduced? The department will compare the amount of the minimum allowance calculated under subsection (3) of this section with your current monthly allowance. You will always receive the higher of the two benefits.

(5) If I qualify for the minimum allowance, when will I begin to receive it?

(a) If your eligibility is based on meeting the requirements of subsection (1)(a)(i) or (b)(i) of this section, and:

(i) You were eligible on July 1, 2004, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2004.

(ii) You become eligible after July 1, 2004, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

Example:

	<u>Regular Allowance (including COLAs and other eligible adjustments)</u>	<u>Adjusted Minimum Allowance</u>	<u>Actual Amount Paid</u>
July 1, 2006	\$882.38 (allowance + COLAs)	<u>\$896.10</u> ($\$1,030 \times .87$)	\$896.10
July 1, 2007	\$914.63 ($\$882.38 + \text{COLA}$)	<u>\$922.98</u> ($\$1,060.90 \times .87$)	\$922.98
July 1, 2008	\$946.88 ($\$914.63 + \text{COLA}$)	<u>\$950.67</u> ($\$1,092.73 \times .87$)	\$950.67
July 1, 2009	\$979.13 ($\$946.88 + \text{COLA}$)	<u>\$979.19</u> ($\$1,125.51 \times .87$)	\$979.19
July 1, 2010	<u>\$1,011.38</u> ($\$979.13 + \text{COLA}$)	$\$1,008.57$ ($\$1,159.28 \times .87$)	\$1,011.38 (reverts to regular allowance including COLAs)

(b) If your eligibility is based on meeting the requirements of subsection (1)(a)(ii) or (b)(ii) of this section, and:

(i) You were eligible on July 1, 2006, you began receiving the minimum allowance in effect at that time, in lieu of your regular monthly allowance, in July 2006.

(ii) You become eligible after July 1, 2006, you will begin receiving the minimum allowance, in lieu of your regular monthly allowance, the month in which you qualify.

(6) Will I receive cost-of-living adjustments (COLAs)? You will not receive the uniform COLA (based on your years of service credit) while you are receiving the minimum allowance.

(7) How long will I continue to receive the minimum allowance? You will receive the minimum allowance calculated under subsection (3) of this section, for your lifetime or until your regular retirement allowance, plus COLAs and other eligible adjustments, exceeds the minimum allowance. At that time you will automatically start receiving the higher allowance.

WSR 07-10-017
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket UT-060676, General Order R-540—Filed April 20, 2007, 2:57 p.m., effective May 21, 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.

ORDER CORRECTING TEXT OF WAC 480-120-161 (4)(e) and WAC 480-120-266 SUBMITTED FOR ADOPTION

1 On March 27, 2007, the Washington utilities and transportation commission (commission) filed with the code reviser an order amending and adopting rules permanently in certain sections of chapters 480-80, 480-120 and 480-121 WAC, relating to eliminating the requirement in rules that telecommunications companies file price lists to implement statutory changes. The commission took this action 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 chapter 80.04 RCW. The order is filed at WSR 07-08-027. The effective date for the amendment and adoption of the rules is May 21, 2007.

2 Recently, the commission learned that an intended deletion of a phrase from subsection (4)(e) of WAC 480-120-161 as published at WSR 07-08-027, was erroneously included in the rule submitted for adoption. The phrase that should have been deleted from subsection (4)(e) of WAC 480-120-161 is set out below in italics:

WAC 480-120-161 Form of bills.

(4) Bill organization....

(e) The telephone bill must include the internet address (uniform resource locator) of the web site containing the service provider's tariff pursuant to WAC 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 information about competitively classified services* that applies to the service being billed.

3 In addition, the commission also learned that a subsection intended to be included as subsection (2) of WAC 480-120-266 was inadvertently omitted from the rule submitted for adoption. The language that should have been included as subsection (2) of WAC 480-120-266 is set out below in italics:

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) Following an inquiry or complaint from the public concerning rates, terms and conditions for competitive telecommunications services, a carrier shall specify where to obtain pertinent information, and how to contact the commission.

(3) 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.

4 Failure to delete the phrase, *or information about competitively classified services*, from WAC 480-120-161 (4)(e), and to include the language in WAC 480-120-266(2), above, submitted to the code reviser with the adoption order constitute an oversight. Accordingly the commission enters this order to correct the rules by deleting the phrase from WAC 480-120-161 (4)(e) and adding the language in subsection (2) of WAC 480-120-266. A copy of the corrected rules are shown below as Appendix A.

DATED at Olympia, Washington, April 20, 2007.

Washington utilities and transportation commission

Mark H. Sidran, Chairman

Patrick J. Oshie, Commissioner

Philip B. Jones, Commissioner

Appendix A

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))~~ 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.

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

NEW SECTION

WAC 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) Following an inquiry or complaint from the public concerning rates, terms and conditions for competitive telecommunications services, a carrier shall specify where to obtain pertinent information, and how to contact the commission.

(3) 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.

WSR 07-10-022

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed April 23, 2007, 9:16 a.m., effective June 1, 2007]

Effective Date of Rule: June 1, 2007.

Purpose: The rule changes:

- Repeal WAC 388-502-0240 and move under a new chapter 388-502A WAC;
- Reorganize the original section into multiple sections under the new chapter;

- Eliminate old, outdated sections of the WAC related to audit appeal hearings that are no longer applicable;
- Add and delete definitions;
- Reduce notification for on-site audits from twenty working days to ten working days - with the exception of hospitals;
- Clarify that hospitals receive thirty days for on-site audit notification;
- Allow the department to bypass the dispute process when certain conditions are met;
- Clarify what appropriate documentation is to support services;
- Clarify that the department reviews objective records;
- Clarify that billing adjustments to paid claims do not impact the original audit universe;
- Clarify that interest on overpayments are extrapolated;
- Clarify the department's authority to initiate a reaudit;
- Delete the revised draft report;
- Clarify that the department may issue a subpoena for records;
- Remove language about the department's process that does not need to be codified but which the department continues to adhere to such as "the department destroys records at the end of the audit" and "the department does not remove original records from the provider's office;"
- Clarify that the department does not reimburse providers' administrative fees associated with an audit;
- Expand audit focus to include "medically necessary" and "provided at the appropriate level of care;"
- Reduce the time period for the provider to dispute draft audit findings from forty-five days to thirty;
- Clarify that the department will acknowledge dispute requests in writing;
- Require the provider attend the dispute conference;
- Require the provider to schedule the dispute conference within sixty days from when the provider receives the department's written acceptance of the dispute; and
- Eliminate the option to ask for an extension for requesting a dispute conference.

Citation of Existing Rules Affected by this Order:
Repealing WAC 388-502-0240.

Statutory Authority for Adoption: RCW 74.09.200.

Other Authority: RCW 74.08.090.

Adopted under notice filed as WSR 07-05-052 on February 16, 2007.

A final cost-benefit analysis is available by contacting Evonne Peryea/Scott Kibler, P.O. Box 45503, Olympia, WA 98504-5503, phone (360) 725-1859/(360) 725-1861, e-mail peryeel@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 13, Amended 0, Repealed 1.

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

Date Adopted: April 20, 2007.

Robin Arnold-Williams
Secretary

Chapter 388-502A WAC

Provider Audits and Appeals

NEW SECTION

WAC 388-502A-0100 Purpose. (1) This chapter:

(a) Defines the department's audit and appeal process for providers; and

(b) Includes, but is not limited to, actions the department may take to ensure provider payments for covered services, supplies, or equipment:

(i) Are made in accordance with federal and state statutes and regulations; and

(ii) Comply with provider billing instructions, published memoranda, and fee schedules. For provider reimbursement rate appeals, see WAC 388-502-0220 and for hospital reports and audits, see WAC 388-550-5700.

(2) This chapter applies to all providers except:

(a) Nursing homes as described in chapter 388-96, 388-97, and 388-98 WAC; and

(b) Managed care organizations as described in chapter 388-538 WAC.

NEW SECTION

WAC 388-502A-0200 Definitions. Unless otherwise specified, the following definitions and those found in WAC 388-500-0005, apply to this chapter:

"Audit period" - The time period the department selects to review a provider's records. This time period is indicated in the audit report.

"Chargemaster" - A list of all goods and services and the prices the provider charges for each of those goods and services.

"Extrapolation" - The methodology of estimating an unknown value by projecting, with a calculated precision (i.e., margin of error), the results of an audited sample to the universe from which the sample was drawn.

"Medical assistance" - For purposes of this chapter, the common phrase used to describe all medical programs available through the department.

"Overpayment" - Any payment or benefit to a client or to a vendor in excess of what is entitled by law, rule or con-

tract, including amounts in dispute, as defined in RCW 43.20B.010.

"Record" - Documentation maintained by a health services provider to show the details of the providing of services or products to a medical assistance client. See also WAC 388-502-0020, general provider requirements.

"Sample" - A selection of claims reviewed under a defined audit process.

"Universe" - A defined population of claims submitted by a provider for payment during a specific time period.

"Usual and customary charge" - The rate providers must bill the department for a certain service or equipment. This rate may not exceed:

(1) The established charge billed to the general public for the same services; or

(2) If the general public is not served, the established rate normally offered to other payers for the same services.

NEW SECTION

WAC 388-502A-0300 Authority to audit. (1) Chapter 74.09 RCW authorizes the department to conduct audits, including reaudits, and to enforce its regulations and policies for all providers.

(2) The department conducts audits on a routine basis and as necessary. Audits can be conducted prior to, or following, payment of services, supplies, or equipment.

(3) The department may also conduct an audit as a result of:

(a) Complaints/allegations;

(b) Actions taken by the Centers for Medicare and Medicaid Services or the department regarding Medicare or medical assistance; or

(c) Actions taken by the department of health.

NEW SECTION

WAC 388-502A-0400 Audit objectives. A department audit has the following objectives:

(1) To determine if services billed and paid under the state's medical assistance and medical care service programs were:

(a) Provided to an eligible client;

(b) Medically necessary;

(c) Provided at the appropriate level of care;

(d) Appropriately documented; and

(e) In accordance with WAC 388-502A-0100(1).

(2) To provide a systematic and uniform method of determining compliance with state and federal program rules and regulations;

(3) To provide a mechanism for data gathering which can be used to modify the state's medical assistance and medical care service programs policies and procedures;

(4) To determine if the services provided meet the community standard of care; and

(5) To determine if the provider is maintaining clinical and fiscal records which substantiate claims submitted for payment during the audit period.

NEW SECTION**WAC 388-502A-0500 Audit methods and locations.**

The department selects the appropriate method of conducting the audit including, but not limited to, the following:

- (1) On-site audits, conducted on the provider's premises;
- (2) Desk audits, conducted at the department's offices; or
- (3) A combination of an on-site and a desk audit.

NEW SECTION**WAC 388-502A-0600 Notification of on-site audits.**

(1) The department sends written notice of a scheduled on-site audit as follows:

- (a) Thirty calendar days in advance for hospitals according to RCW 70.41.045; and
- (b) Ten business days in advance for all other providers.
- (2) Exceptions to the written notice in subsection (1) of this section include, but are not limited to:
 - (a) Providers who are suspected of fraudulent or abusive practices;
 - (b) When the department has reason to believe that a provider's action endangers the health and safety of one or more clients; or
 - (c) A third-party liability compliance audit.

NEW SECTION

WAC 388-502A-0700 Audit overview. (1) The following may be included in the department audit:

- (a) An examination of provider medical and financial records;
- (b) A draft audit report, which contains findings and directives;
- (c) A dispute process as described in WAC 388-502A-1100, unless a condition in subsection (4) of this section or a condition in WAC 388-502A-1100(8) applies; and
- (d) A final audit report.
- (2) Providers must maintain appropriate documentation in the client's medical or health care service records to verify the level, type, and extent of services provided. Pursuant to WAC 388-502-0020, providers must:
 - (a) Keep legible, accurate, and complete charts and records to justify the services provided to each client;
 - (b) Assure charts are authenticated by the person who gave the order, provided the care, or performed the observation, examination, assessment, treatment or other service to which the entry pertains; and
 - (c) Make charts and records available to DSHS, its contractors, and the U.S. Department of Health and Human Services upon request, for six years from the date of service or longer if required specifically by federal or state law or regulation. Refer to WAC 388-502-0020 for additional provider requirements.
- (3) A health care provider's bill for services, appointment books, accounting records, or other similar documents alone do not qualify as appropriate documentation for services rendered.
- (4) If a provider fails to participate or comply with the department's audit process or unduly delays the department's

audit process, the department considers the provider's actions or lack thereof, as abandonment of the audit.

(5) If the department suspects a provider of fraud, abusive practices, audit abandonment, or presents a risk of imminent danger to clients, the department may take one or more of the actions listed below:

- (a) Immediately issue a final report;
- (b) Terminate the core provider agreement;
- (c) Issue a subpoena for the provider's records pursuant to RCW 43.20A.605; or
- (d) Refer the provider to the appropriate prosecuting authority.

NEW SECTION

WAC 388-502A-0800 Auditing process. (1) The department inspects provider records for objective data consistent with the purpose defined under WAC 388-502A-0100(1). The department may require a provider to furnish original records for the department to review.

(2) The department may assess an overpayment for medical services and terminate the core provider agreement if a provider fails to retain adequate documentation for services billed to the department.

(3) As part of the audit:

(a) The department may examine provider financial records, client medical records, employee records, provider appointment books, and any other applicable records that are related to the services billed to the department. The examination may:

- (i) Verify usual and customary charges and payables including receivable accounts;
- (ii) Verify third-party liability;
- (iii) Compare clinical and fiscal records to each claim; and
- (iv) Compare Medicaid charges to other insured or private pay patient charges to determine that the amount billed to the department is not more than the usual and customary charge documented in the provider's chargemaster.

(b) The department's procedures for auditing providers may include:

- (i) Use of random sampling;
- (ii) Extrapolation of principal and interest;
- (iii) Conducting a claim audit;
- (iv) Interviews with clients, providers, and/or their employees;
- (v) Investigating complaints or allegations;
- (vi) Investigating actions taken regarding Medicare or medical assistance; and
- (vii) Investigating actions taken by the health profession's quality assurance commissions with the department of health.

(4) Per RCW 43.20A.605, the department may issue a subpoena for records from the provider or a third party including taking depositions or testimony under oath.

(5) When possible, the department works with the provider to minimize inconvenience and disruption of health care delivery during the audit.

(6) The department does not reimburse a provider's administrative fees, such as copying fees, for records requested during an audit.

NEW SECTION

WAC 388-502A-0900 Audit sampling, extrapolation, and claim-by-claim review. (1) The department's procedures for auditing providers may include, but are not limited to, the following:

(a) The use of random sampling and extrapolation; and/or

(b) A claim-by-claim based review.

(2) The department's sample sizes are sufficient to ensure a minimum of ninety-five percent confidence level.

(a) When calculating the amount to be recovered, the department totals all overpayments and underpayments reflected in the sample and may extrapolate to the universe from which the sample was drawn.

(b) When the department uses the results of an audit sample to extrapolate the amount to be recovered, the provider may request a description of all of the following:

(i) The universe from which the department drew the sample;

(ii) The sample size and method that the department used to select the sample; and

(iii) The formulas and calculation procedures the department used to determine the amount of the overpayment.

(c) If a provider rebills a claim(s) for an adjustment and that claim(s) is part of the audit universe, the department does not remove the original paid claim(s) amount from the audit universe.

(3) When a claim-by-claim audit is conducted, specific claims are selected from the universe and audit overpayments are not extrapolated.

(4) The department recovers overpayments identified in the final audit report.

(5) The department does not consider non-billed or zero paid services or supplies when calculating underpayments or overpayments.

(6) The department considers undocumented services to be program overpayments.

NEW SECTION

WAC 388-502A-1000 Provider audit - Draft report.

(1) Upon completion of the examination of records, the department notifies the provider of missing files or records that are necessary to complete the audit. The department allows the provider thirty calendar days from the date of notification to locate and provide those records needed to complete an audit.

(2) After the department completes its review of the provider's records, the department issues a draft report.

NEW SECTION

WAC 388-502A-1100 Provider audit - Dispute process. (1) A provider may dispute the draft audit findings by submitting a written request within thirty calendar days of receipt of the draft report. The provider must:

(a) Specify which finding(s) the provider is contesting;

(b) Supply documentation to support the provider's position; and

(c) Indicate whether a dispute conference is requested.

(2) The department acknowledges and responds in writing to providers' requests for a dispute conference and to each disputed finding.

(3) In accordance with WAC 388-502A-0700 (4) and (5), the department may decline a provider's dispute request.

(4) The provider must schedule the dispute conference with the department within sixty calendar days from the day the provider receives the department's written acceptance of the request for a dispute conference.

(5) The provider requesting the dispute conference and the appropriate department representatives must attend the dispute conference.

(6) If the department and the provider reach an agreement during the dispute conference process, the department issues the final audit report.

(7) If the department and the provider cannot reach an agreement during the dispute process, and the provider has had the opportunity to raise all concerns related to the audit findings, the department closes the dispute process and issues a final audit report.

(8) In addition to the circumstances in WAC 388-502A-0600(2), the department may also issue a final audit report without the dispute process described in this section when the provider:

(a) Transfers ownership of the business;

(b) Ceases doing business in Washington;

(c) Files for bankruptcy;

(d) Transfers business or personal assets available to the audited entity at the time of the initial audit; or

(e) Abandons the dispute process by failing to participate in the process.

NEW SECTION

WAC 388-502A-1200 Provider audit - Final report/ appeal. (1) After the department issues the final audit report, the provider has twenty-eight calendar days from the date of the report to appeal the overpayment. Audit appeal hearings are governed by RCW 43.20B.675.

(2) The request for an audit appeal hearing must:

(a) Be in writing;

(b) State the basis for contesting the final audit report;

(c) Include a copy of the department's final audit report;

(d) Be received by the department within twenty-eight calendar days of the provider's receipt of the notice of overpayment;

(e) Be served on the department in a manner which provides proof of receipt as described in WAC 388-02-0050; and

(f) Be sent to:

DSHS Office of Financial Recovery

P.O. Box 9501

Olympia, WA 98507-9501

(3) The burden of proving compliance with applicable federal and state statutes and regulations, provider billing

instructions, published memoranda, and fee schedules rests with the provider at the audit appeal hearing.

NEW SECTION

WAC 388-502A-1300 Audit outcomes. (1) Based on audit findings, the department may:

(a) Request repayment, including interest on the amount of excess benefits or payments, per RCW 43.20B.695; and

(b) Assess civil penalties per chapter 74.09 RCW. The amount of civil penalties may not exceed three times the amount of excess benefits or payments the provider received.

(2) When the department imposes a civil penalty or terminates a provider's core provider agreement the department gives written notice of the action taken to the appropriate licensing agency, disciplinary commission, or other entity requiring a report.

(3) When an audit shows that a provider has not complied with the regulations and policies of the medical assistance or the medical care service program(s), the department may refer that provider to the appropriate disciplinary commission.

(4) When the department finds evidence of or has reason to suspect fraud, the provider is referred to the appropriate prosecuting authority for possible criminal action.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-502-0240	Audits and the audit appeal process for contractors/providers.
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WSR 07-10-023
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Division of Vocational Rehabilitation)

[Filed April 23, 2007, 9:21 a.m., effective June 15, 2007]

Effective Date of Rule: June 15, 2007.

Purpose: Chapter 388-891 WAC, Vocational rehabilitation services for individuals with disabilities; new WAC 388-891-0103 Can DVR obtain personal information about you? and 388-891-1137 What if the employment goal I choose is religious in nature?; amending WAC 388-891-0140 Can I obtain copies of information in my case service record?, 388-891-0255 How do I request a fair hearing?, 388-891-0330 Does DVR consider academic awards and scholarships as income?, 388-891-0360 What personal resources are not counted in the decision about whether I have to help pay for services?, 388-891-0520 What is the criteria for priority category 1—Individuals with most severe disabilities?, 388-891-0530 What is the criteria for priority category 2—Individuals with severe disabilities?, 388-891-0540 What is the criteria for priority category 3—Individuals with disabilities?, 388-891-0840 What are supported employment ser-

vices?, 388-891-0880 What happens if my DVR counselor and I do not find a source for extended services and/or we cannot establish natural supports during the initial 18 months of my individualized plan for employment? and 388-891-1300 Why does DVR close a case service record?; and repealing WAC 388-891-870 Are supported employment services time-limited?

Chapter 388-890 WAC, Rehabilitation services for individuals with disabilities; repealing WAC 388-890-0780 What is the independent living (IL) program?, 388-890-0785 What types of services does the IL program offer?, 388-890-0790 Who is eligible for Title VII IL program services?, 388-890-0795 What is a significant disability?, 388-890-0800 Who provides IL program services?, 388-890-0805 What are my responsibilities in the IL program?, 388-890-0810 How do I apply for IL program services?, 388-890-0815 What happens after I submit my application for IL program services?, 388-890-0820 Who decides if I am eligible for IL program services?, 388-890-0825 Where does the IL program get the information needed to decide if I am eligible?, 388-890-0830 How do I find out if I am eligible for IL program services?, 388-890-0835 What if I disagree with a decision about my eligibility for IL or a decision about IL program services?, 388-890-0840 Under what conditions can I get IL program services?, 388-890-0845 How are my IL program services planned?, 388-890-0850 What is included on a written or verbal IL plan?, 388-890-0855 Who signs and keeps a written IL plan?, 388-890-0860 How often is my IL plan reviewed?, 388-890-0870 What are IL advocacy services?, 388-890-0875 What are IL rehabilitation technology services?, 388-890-0880 What are IL communication services?, 388-890-0885 What are IL counseling services?, 388-890-0890 What are IL housing services?, 388-890-0895 Are IL program payments for home modifications limited?, 388-890-1000 What is IL skills training?, 388-890-1005 What are IL information and referral services?, 388-890-1010 What is IL peer counseling?, 388-890-1015 What is IL mobility training?, 388-890-1020 What is IL personal assistance training?, 388-890-1025 Does the IL program pay for attendant services as part of personal assistance training?, 388-890-1030 What are IL physical rehabilitation services?, 388-890-1035 What are IL preventive services?, 388-890-1040 What are IL recreational services?, 388-890-1045 What are IL program services to family members?, 388-890-1050 What are IL therapeutic services?, 388-890-1055 What are IL transportation services?, 388-890-1060 What other services does the IL program offer?, 388-890-1065 How long can I receive independent living services?, 388-890-1070 Why does the IL program stop providing or paying for IL program services?, 388-890-1075 Am I involved in the decision to stop receiving IL program services?, 388-890-1080 How does the IL program notify me that my services are stopping?, 388-890-1085 If the IL program decides I am not eligible for IL program services, is the decision reviewed?, 388-890-1090 Does the IL program keep a record of my IL program services?, and 388-890-1095 Does the IL program keep personal information confidential?

Citation of Existing Rules Affected by this Order: The proposed rules are intended to comply with the Rehabilitation Act of 1973 as amended in August 1998, including Title I

Vocational Rehabilitation Services; Title VI Employment Opportunities for Individuals with Disabilities; 34 Code of Federal Regulations Parts 361 and 363 and RCW 74.29.020(8) for rehabilitation services for individuals with disabilities. The proposed rules are also intended to comply with 45 C.F.R. Part 160 to 164 for disclosure of public records and access to DSHS records; the Washington State Constitution, Article I, Section 11 prohibiting state funds to pay for religious education or training in support of an employment goal that is religious in nature.

The proposed rules are intended to support the division of vocational rehabilitation's (DVR's) mission to help people with disabilities go to work. The proposed rules are also intended to inform the public about DVR's vocational rehabilitation (VR) services and the conditions under which DVR provides them. The rule changes affect DVR customers, contractors and service providers. Major areas covered include: Independent Living Program Title VII, Part B; individualized plan for employment; comparable benefits; customer financial participation in the cost of services; supported employment; order of selection; case closure; and use of confidential information.

Major content changes include:

- Repealing WACs for the Title VII, Part B Independent Living Program. DVR has not directly provided Title VII, Part B Independent Living Services since February 2003. These services have been, and will continue to be contracted; the WACs governing these services are not relevant to the business DVR does with the contractors.
- Adding a rule to prohibit DVR from supporting education or training for an employment goal that is religious in nature.
- Amending a rule to indicate that academic awards and scholarships based on merit are not considered comparable benefits.
- Amending a rule to clarify that while academic awards and scholarships based on merit are not considered comparable benefits, they may be considered as personal resources when determining the customer's ability to pay for services.
- Amending a rule to clarify that a supported employment case can be closed before 18 months of service when it is determined there is no reasonable expectation that a source of funding for extended services will become available and that natural supports are not available.
- Repealing a rule about the eighteen month time-limited supported employment services and including the eighteen month time-limit in another rule.
- Amending a rule by removing supported employment (type of service) as criteria for [priority] category 1—Individuals with most severe disabilities. Also, terms are added to describe serious functional losses.
- Amending a rule by removing a reference to receiving social security benefits as criteria for priority category 2—Individuals with severe disabilities. Also, terms are added to describe functional losses.

- Amending a rule to clarify a reason for closing a supported employment case when options for extended services or natural supports will not become available.
- Amending a rule to no longer require a customer to submit a written request to review or obtain copies from his/her case service record. Also, to require other agencies or service providers that provide personal information about a customer to inform DVR of the conditions under which DVR can share that personal information.
- Adding a new rule to
 - o Clarify the reasons why DVR may obtain specific personal information about the customer;
 - o Allow DVR to obtain specific personal and financial information with or without the customer's consent; and
 - o Clarify that information collected by DVR from service providers or other agencies will not be released to others without the customer's written consent.

Reasons Supporting Proposal: The proposed rules eliminate unnecessary rules, clarify other rules, and incorporate policies into rules. The proposed rules increase compliance with the intent of federal and state laws and protect program funding. The proposed rules support practices that are likely to increase funding availability for services to customers, increase the number of customers served, decrease the length of time customers have to wait for services, increase the protection of customer personal information and increase customer satisfaction.

Statutory Authority for Adoption: RCW 74.29.020 and 74.08.090.

Other Authority: August 1998 Amendments to the Rehabilitation Act of 1973, 34 Code of Federal Regulations (C.F.R.) Part 361 and 34 C.F.R. Part 363.

Adopted under notice filed as WSR 07-02-067 on December 29, 2006.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 388-891-0840, the change is made to more clearly conform with the intent of 34 C.F.R. 363.6 (3)(iii) and 361.5.38(C) that the eighteen month period is from job placement to transition to extended services rather than the date when delivery of ongoing support services start to be provided.... Text changes were made as a result of internal comments and legal counsel received.

2. WAC 388-891-0880 and 388-891-1300, the change is made to more clearly conform with 34 C.F.R. 361.46 (b)(3) that securing resources rather than funding is intended for extended services and natural supports. Text changes were made as a result of internal comments and legal counsel received.

A final cost-benefit analysis is available by contacting Michael Cunningham, DSHS/DVR, P.O. Box 45340, Olympia, WA 98504-5340, phone (360) 725-3621, fax (360) 407-3932, e-mail cunninm@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 2, Amended 10, Repealed 44.

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 10, Repealed 44.

Date Adopted: April 20, 2007.

Robin Arnold-Williams
Secretary

NEW SECTION

WAC 388-891-0103 Can DVR obtain personal information about you? (1) In order to serve you, DVR may obtain personal information about you from service providers and cooperating agencies. This personal information helps us better understand your disabilities, barriers to employment, abilities, interests and needs for VR services and to coordinate DVR services with the services you receive from other agencies and programs.

(2) DVR may obtain financial information about you from state and federal agencies to verify benefits you receive from other agencies or programs, earnings and income from employment or self-employment. DVR will only collect such information if the state or federal agencies have legal authority to release it to DVR. This may occur with or without your consent.

(3) If DVR collects information about you from service providers or other agencies, the information will not be released to others without your written consent.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0140 Can I obtain copies of information in my case service record? (1) You may review or obtain copies of information contained in your case service record by submitting a ~~((written))~~ request to DVR. DVR provides access to or provides copies of records upon request, except in the following circumstances:

(a) If DVR believes the medical, psychological, or other records in your case service record may be harmful to give to you, DVR only releases the records to a third party that you choose, such as your representative, parent, legal guardian or a qualified medical professional.

(b) If DVR receives personal information about you from another agency or service provider, DVR may ~~((only))~~ share the records ~~((as authorized))~~ only by, or under the conditions established by the agency or service provider that provided the information.

(c) If a representative has been appointed by a court to represent you, the information must be released to the representative.

(2) DVR provides access or gives you copies of records within ~~((ten))~~ five business days of receiving your ~~((written))~~ request. If DVR cannot fulfill your request within ~~((ten))~~ five business days, DVR will send you a written notice of the reason(s) the request cannot be met and the date you are granted access or the date the requested information will be provided.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0255 How do I request a fair hearing?

(1) To ask for a fair hearing, send a written request to the office of administrative hearings. You must include the following information in your written request:

- (a) Your name, address, and telephone number;
- (b) The name of the DSHS program that the fair hearing involves (such as DVR);
- (c) A written statement describing the decision and the reasons you disagree; and
- (d) Any other information or documents that relate to the matter.

(2) You must submit your request for a fair hearing within ~~((twenty))~~ forty-five calendar days of the date the VR counselor makes the decision with which you disagree.

(3) You may ask any DVR employee for instructions or assistance to submit a request for a fair hearing.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0330 Does DVR consider academic awards and scholarships based on merit as ~~((income))~~ comparable benefits? DVR does not consider academic awards and scholarships ~~((you earn))~~ based on merit ~~((are not counted as income for purposes of determining your participation in the cost of services))~~ as comparable benefits.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0360 What personal resources are not counted in the decision about whether I have to help pay for services? DVR does not count the following resources when deciding whether you need to help pay for DVR:

- (1) The value of your primary home and furnishings;
- (2) The value of items that you keep because of personal attachment, rather than because of monetary value;
- (3) The value of one vehicle per household member needed for work, school, or to participate in VR services;
- (4) Retirement, insurance, or trust accounts that do not pay a current benefit to you or your family;
- (5) If a retirement, insurance or trust account pays a current benefit, only the monthly benefit is counted as income and the balance of the account is excluded;
- (6) ~~((Awards or scholarships you earn based on merit;~~
- ~~((7)))~~ Up to five thousand dollars of your total assets are excluded as exempt;
- ~~((8)))~~ (7) Equipment or machinery used to produce income;
- ~~((9)))~~ (8) Livestock used to produce income; and
- ~~((10)))~~ (9) Disability-related items and/or services.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0520 What ((is)) are the criteria for priority category 1—Individuals with most severe disabilities? DVR determines you are in priority category 1—Individuals with most severe disabilities, if you are determined eligible for vocational rehabilitation services and you meet the following criteria:

- (1) ~~((You require supported employment; and/or~~
- (2) ~~You meet the criteria for an individual with a severe disability as defined in WAC 388-891-0530;))~~ You require two or more VR services over an extended period of time (twelve months or more); and
 - (2) You experience serious functional losses in four or more of the following areas in terms of an employment outcome:
 - (a) Mobility;
 - (b) Communication;
 - (c) Self-care;
 - (d) Cognition and learning (Self-direction);
 - (e) Interpersonal ((skills));
 - (f) Work tolerance; or
 - (g) Work skills.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0530 What ((is)) are the criteria for priority category 2—Individuals with severe disabilities? DVR determines you are in priority category 2—Individuals with severe disabilities if you are determined eligible for vocational rehabilitation services and you meet the following criteria:

- (1) ~~((You are receiving disability benefits under Title II or Title XVI of the Social Security Act, but do not meet the criteria for priority category 1; and/or~~
- (2) ~~You meet the eligibility requirements outlined in WAC 388-891-0540;))~~ You require two or more VR services over an extended period of time (twelve months or more); and((:))
 - (2) You experience serious functional losses in one to three of the following areas in terms of an employment outcome:
 - (a) Mobility;
 - (b) Communication;
 - (c) Self-care;
 - (d) Cognition and learning (Self-direction);
 - (e) Interpersonal ((skills));
 - (f) Work tolerance; or
 - (g) Work skills.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0540 What ((is)) are the criteria for priority category 3—Individuals with disabilities? DVR determines you are in priority category 3—Individuals with disabilities if you ~~((meet the eligibility requirements outlined in WAC 388-891-1000))~~ are determined eligible for voca-

tional rehabilitation services, but you do not meet the criteria for priority category 1 or priority category 2.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0840 What are supported employment services? Supported employment services are:

- (1) Ongoing support services as described in WAC 388-891-0845; and
- (2) Vocational rehabilitation services listed in WAC 388-891-0600.
 - (3) These services may be provided to you:
 - (a) As part of your individualized plan for employment;
 - (b) To support and maintain you in supported employment;
 - (c) For a period of time not to exceed eighteen months, unless under special circumstances, you and the VR counselor jointly agree to extend the time in order to achieve the employment goals in your rehabilitation plan for employment. This eighteen month period begins from job placement until transition to extended services.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-0880 What ((happens)) if my ((DVR)) counselor and I ((do not find a source for extended services and/or we cannot establish natural supports during the initial eighteen months of my individualized plan for employment)) cannot secure a source of extended services or natural supports? ~~((If you and your DVR counselor do not find a source for extended services and/or cannot establish natural supports during the initial eighteen months of your individualized plan for employment, DVR must determine that you are no longer eligible for VR services))~~ If a DVR counselor determines that you require supported employment and has explored all available options for securing resources for extended services or natural supports and there is no reasonable expectation these services will become available, DVR must close your case service record.

NEW SECTION

WAC 388-891-1137 What if the employment goal I choose is religious in nature? DVR is prohibited from supporting education or training for an employment goal that is religious in nature under the Washington State Constitution, Article 1, Subsection 11.

AMENDATORY SECTION (Amending WSR 03-02-014, filed 12/20/02, effective 2/3/03)

WAC 388-891-1300 Why does DVR close a case service record? A DVR counselor closes your case service record for any of the following reasons:

- (1) You achieve an employment outcome;
- (2) DVR determines that you are not eligible or no longer eligible;
- (3) You are no longer available to participate in services;
- (4) You decline VR services;

- (5) You cannot be located;
- (6) You ask DVR to close your case service record; ~~((6F))~~
- (7) You refuse to cooperate in required or agreed upon conditions or services; or
- (8) You require supported employment services and you and your VR counselor have explored all available options for securing resources for extended services or natural supports and there is no reasonable expectation these services will become available.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-891-0870 Are supported employment services time-limited?

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-890-0780 What is the independent living (IL) program?
- WAC 388-890-0785 What types of services does the IL program offer?
- WAC 388-890-0790 Who is eligible for Title VII IL program services?
- WAC 388-890-0795 What is a significant disability?
- WAC 388-890-0800 Who provides IL program services?
- WAC 388-890-0805 What are my responsibilities in the IL program?
- WAC 388-890-0810 How do I apply for IL program services?
- WAC 388-890-0815 What happens after I submit my application for IL program services?
- WAC 388-890-0820 Who decides if I am eligible for IL program services?
- WAC 388-890-0825 Where does the IL program get the information needed to decide if I am eligible?
- WAC 388-890-0830 How do I find out if I am eligible for IL program services?
- WAC 388-890-0835 What if I disagree with a decision about my eligibility for IL or a decision about IL program services?
- WAC 388-890-0840 Under what conditions can I get IL program services?

- WAC 388-890-0845 How are my IL program services planned?
- WAC 388-890-0850 What is included on a written or verbal IL plan?
- WAC 388-890-0855 Who signs and keeps a written IL plan?
- WAC 388-890-0860 How often is my IL plan reviewed?
- WAC 388-890-0870 What are IL advocacy services?
- WAC 388-890-0875 What are IL rehabilitation technology services?
- WAC 388-890-0880 What are IL communication services?
- WAC 388-890-0885 What are IL counseling services?
- WAC 388-890-0890 What are IL housing services?
- WAC 388-890-0895 Are IL program payments for home modifications limited?
- WAC 388-890-1000 What is IL skills training?
- WAC 388-890-1005 What are IL information and referral services?
- WAC 388-890-1010 What is IL peer counseling?
- WAC 388-890-1015 What is IL mobility training?
- WAC 388-890-1020 What is IL personal assistance training?
- WAC 388-890-1025 Does the IL program pay for attendant services as part of personal assistance training?
- WAC 388-890-1030 What are IL physical rehabilitation services?
- WAC 388-890-1035 What are IL preventative services?
- WAC 388-890-1040 What are IL recreational services?
- WAC 388-890-1045 What are IL program services to family members?
- WAC 388-890-1050 What are IL therapeutic services?
- WAC 388-890-1055 What are IL transportation services?
- WAC 388-890-1060 What other services does the IL program offer?
- WAC 388-890-1065 How long can I receive independent living services?

- WAC 388-890-1070 Why does the IL program stop providing or paying for IL program services?
- WAC 388-890-1075 Am I involved in the decision to stop receiving IL program services?
- WAC 388-890-1080 How does the IL program notify me that my services are stopping?
- WAC 388-890-1085 If the IL program decides I am not eligible for IL program services, is the decision reviewed?
- WAC 388-890-1090 Does the IL program keep a record of my IL program services?
- WAC 388-890-1095 Does the IL program keep personal information confidential?

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.
 Adopted under notice filed as WSR 07-04-091 on February 6, 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 0, Repealed 0.
 Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.
 Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.
 Date Adopted: April 20, 2007.

Stephanie E. Schiller
 Rules Coordinator

WSR 07-10-024
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed April 23, 2007, 11:50 a.m., effective June 1, 2007]

Effective Date of Rule: June 1, 2007.
 Purpose: This rule making:

1. Clarifies the age guidelines and clinical complexity classifications, within the comprehensive assessment reporting evaluation (CARE) tool algorithm, to evaluate a child's needs when the child is comatose or has pain daily related to his/her disability. The algorithm within the CARE tool used to establish children's eligibility for personal care services was developed based upon self-performance codes, taking into account normal childhood milestones and typical care parents provide to their children at certain ages. For example, a child who has pain daily as a result of teething, a normal childhood milestone not related to a disability, should not be placed in a clinically complex classification based solely on teething pain. This rule making further clarifies and strengthens these guidelines to avoid placing children in incorrect classifications.
2. Clarifies eligibility language for Medicaid personal care (MPC) and waiver services to ensure that a client has unmet or partially met needs that make the client eligible for assistance with personal care tasks.
3. Clarifies that clients will be assessed by the department's CARE tool when applying for or receiving long-term care services as part of a managed care benefit under WMIP and MMIP programs.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-106-0070, 388-106-0095, and 388-106-0213.

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

WAC 388-106-0070 Will I be assessed in CARE? You will be assessed in CARE if you are applying for or receiving COPEs, MNIW, MNRW, MPC, chore, respite, adult day health, GAU-funded residential care, PACE, ((☞)) Private Duty Nursing, or long-term care services within the MMIP or WMIP programs. You may not be assessed by forms previously used by the department once you have been assessed under CARE.

If you are under the age of eighteen and within thirty calendar days of your next birthday, CARE determines your assessment age to be that of your next birthday.

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

WAC 388-106-0095 How does the CARE tool measure clinical complexity? The CARE tool places you in the clinically complex classification group only when you have one or more of the following criteria and corresponding ADL scores:

Condition	AND an ADL Score of
ALS (Lou Gehrig's Disease)	>14
Aphasia (expressive and/or receptive)	>=2
Cerebral Palsy	>14
Diabetes Mellitus (insulin dependent)	>14
Diabetes Mellitus (noninsulin dependent)	>14
Emphysema & Shortness of Breath (at rest or exertion) or dizziness/vertigo	>10
COPD & Shortness of Breath (at rest or exertion) or dizziness/vertigo	>10
Explicit terminal prognosis	>14
Hemiplegia	>14

Condition	AND an ADL Score of
Multiple Sclerosis	>14
Parkinson Disease	>14
Pathological bone fracture	>14
Quadriplegia	>14
Rheumatoid Arthritis	>14
You have one or more of the following skin problems: <ul style="list-style-type: none"> ■ Pressure ulcers, with areas of persistent skin redness; ■ Pressure ulcers with partial loss of skin layers; ■ Pressure ulcers, with a full thickness lost; ■ Skin desensitized to pain/pressure; ■ Open lesions; and/or ■ Stasis ulcers. <p style="text-align: center;">AND</p> You require one of the following types of assistance: <ul style="list-style-type: none"> ■ Ulcer care; ■ Pressure relieving device; ■ Turning/reposition program; ■ Application of dressing; or ■ Wound/skin care. 	>=2
You have a burn(s) and you need one of the following: <ul style="list-style-type: none"> ■ Application of dressing; or ■ Wound/skin care 	>=2
You have one or more of the following problems: <ul style="list-style-type: none"> ■ You are frequently incontinent (bladder); ■ You are incontinent all or most of the time (bladder); ■ You are frequently incontinent (bowel); or ■ You are incontinent all or most of the time (bowel). <p style="text-align: center;">AND</p> One of the following applies: <ul style="list-style-type: none"> ■ The status of your individual management of bowel bladder supplies is "Uses, has leakage, needs assistance"; ■ The status of your individual management of bowel bladder supplies is "Does not use, has leakage"; or ■ You use any scheduled toileting plan. 	>10
You have a current swallowing problem, and you are not independent in eating.	>10
You have Edema.	>14

Condition	AND an ADL Score of
You have Pain daily.	>14
You need and receive a Bowel program.	>10
You need Dialysis.	>10
You require IV nutritional support or tube feedings; and Your total calories received per IV or tube was at least 25%; and Your fluid intake is greater than 2 cups.	>=2
You need Hospice care.	>14
You need Injections.	>14
You need Intravenous medications.	>10
You need management of IV lines.	>10
You need Ostomy care.	>=2
You need Oxygen therapy.	>10
You need Radiation.	>10
You need and receive Passive range of motion.	>10
You need and receive Walking training.	>10
You need Suction treatment.	>=2
You need Tracheostomy care.	>10
You need a Ventilator/respirator	>10
<u>You are <18 and you have pain related to your disability and you complain of pain or show evidence of pain daily. (If you are under eighteen and do not have pain related to your disability, you may be placed in the clinically complex classification based on other factors above.)</u>	>14
Key: <means less than. >means greater than. >= means greater than or equal to.	

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

WAC 388-106-0213 How are my needs assessed if I am a child applying for MPC services? If you are a child applying for MPC services, the department will complete a CARE assessment and:

- (1) Consider and document the role of your legally responsible natural/step/adoptive parent(s).
- (2) ~~((Code))~~ The CARE tool will determine your needs as met based on the guidelines outlined in the following table:

Activities of Daily Living (ADLs)

Ages		0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
■ = Code status as Met																			
Medication Management																			
Independent, ((supervision, limited-, extensive, or total)) self-directed, <u>administration required, or must be administered</u>		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Locomotion in Room ^{Note}																			
Independent, supervision, limited or extensive		■	■	■	■														
Total		■	■																

Activities of Daily Living (ADLs)

Ages

■ = Code status as Met

Locomotion Outside Room^{Note}

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Independent or supervision	■	■	■	■	■	■												
Limited or extensive	■	■	■	■														
Total	■	■																

Walk in Room^{Note}

Independent, supervision, limited or extensive	■	■	■	■														
Total	■	■																

Bed Mobility

Independent, supervision, limited or extensive	■	■	■															
Total	■	■																

Transfers

Independent, supervision, limited, extensive or total & under 30 pounds (Total & ((over)) 30 pounds or more = no age limit)	■	■	■															
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Toilet Use

Support provided for nighttime wetting only (independent, supervision, limited, extensive)	■	■	■	■	■	■	■	■	■	■								
Independent, supervision, limited, extensive	■	■	■	■	■	■												
Total	■	■	■	■	■	■												

Eating

Independent, supervision, limited, extensive, or total	■	■	■															
--	---	---	---	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Bathing

Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■						
Physical ((assistance all/part)) help/transfer only or physical help/part of bathing	■	■	■	■	■	■	■	■										
Total	■	■	■	■	■	■	■	■										

Dressing

Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■						
Limited or extensive	■	■	■	■	■	■	■	■										
Total	■	■	■	■	■	■	■	■										

Personal Hygiene

Independent or supervision	■	■	■	■	■	■	■	■	■	■	■	■						
Limited or extensive	■	■	■	■	■	■	■	■										
Total	■	■	■	■	■	■	■	■										

Instrumental Activities of Daily Living

Ages

■ = Code status as Met

Telephone

Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
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Transportation

Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
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Shopping

Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
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Wood Supply

Independent, supervision, limited, extensive, or total	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
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Instrumental Activities of Daily Living

Ages

■ = Code status as Met

Housework

Independent, supervision, limited, extensive, or total

Finances

Independent, supervision, limited, extensive, or total

Meal Preparation

Independent, supervision, limited, extensive, or total

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Housework	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Finances	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Meal Preparation	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

NOTE: If the activity did not occur, the department codes self performance as total and status as met.

	Ages																	
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Additional guidelines based on age																		
Diagnosis	■	■	■	■	■	■												
Is client comatose?= No	■	■	■	■	■	■												
Pain Daily= No	■	■	■	■	■	■												
Any foot care needs																		
Status= Need met	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Any skin care (other than feet)																		
Status= Need met	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Speech/Hearing																		
Score comprehension as understood	■	■	■															
MMSE can be administered = no	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Memory																		
Short term memory ok	■	■	■	■	■	■	■	■	■	■	■	■						
Long term memory ok	■	■	■	■	■	■	■	■	■	■	■	■						
Depression																		
Select interview = unable to obtain	■	■	■	■	■	■	■	■	■	■	■	■						
Decision making																		
Rate how client makes decisions = independent	■	■	■	■	■	■	■	■	■	■	■	■						
Bladder/Bowel																		
Support provided for nighttime wetting only - Individual management = Does not need/use	■	■	■	■	■	■	■	■	■	■	■	■						
Support provided for daytime wetting - Individual Management = Does not need/use	■	■	■	■	■	■												
Treatment																		
Passive range of motion <u>Need= No</u>	■	■	■	■														

(3) In addition, determine that the status and assistance available are met or partially met over three-fourths of the time, when you are living with your legally responsible natural/step/adoptive parent(s).

(4) Will not code mental health therapy, behaviors, or depression if you are in foster care.

WSR 07-10-028
 PERMANENT RULES
 UTILITIES AND TRANSPORTATION
 COMMISSION

[Docket TR-070198, General Order R-542—Filed April 23, 2007, 2:51 p.m., effective May 24, 2007]

In the matter of repealing WAC 480-62-155 relating to train speeds.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission takes this action under WSR 07-04-110, filed with the code reviser on February 7, 2007. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, and 34.05.353.

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 that 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 include the identification of 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 as 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-105 proposal and the adoption hearing. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order repeals WAC 480-62-155 Train speeds.

7 NOTICE OF PROPOSED RULE MAKING: The commission filed an expedited rule making, CR-105, on February 7, 2007, at WSR 07-04-110. The statement advised interested persons that the rule making would repeal WAC 480-62-155 Train speeds. In June 2006, the state legislature adopted revisions to RCW 81.48.040, including a specific process for railroads to follow to increase train speeds. The commission's rule governing train speeds, WAC 480-62-155, establishes the commission's current process for considering whether to alter train speed limits, either upon petition or upon its own motion. Because the revisions to RCW 81.48.040 established a new process for considering train speed increases, this rule is no longer necessary. The commission also informed persons of the matter by providing notice of the subject and the CR-105 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), the commission's lists of all railroad companies operating in the state, persons interested in railroad issues, as well as attorneys representing the industry, and by posting all information on the commission's web site.

8 WRITTEN COMMENTS: The commission received no written comments on the proposal to repeal the rule.

9 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should repeal WAC 480-62-155 as proposed in the CR-105 at WSR 07-04-110.

10 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-62-155 should be repealed as a rule 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 0, Amended 0, Repealed 1.

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

11 THE COMMISSION ORDERS:

12 The commission repeals WAC 480-62-155 as a rule of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

13 This order and the rule 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, 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, April 23, 2007.

Washington utilities and transportation commission

Mark H. Sidran, Chairman

Patrick J. Oshie, Commissioner

Philip B. Jones, Commissioner

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-62-155 Train speeds.

WSR 07-10-029

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed April 23, 2007, 3:21 p.m., effective June 1, 2007]

Effective Date of Rule: June 1, 2007.

Purpose: The purpose of these new rules in chapter 388-828 WAC is to govern and support the administration of the division's newly developed, computer-based assessment tool that is designed to measure the support needs of clients for service determination. The DDD assessment will replace existing paper-based methods resulting in a universal assessment and support planning process. The purpose of the DDD assessment is to provide a comprehensive assessment process that: (1) Collects a common set of assessment information for reporting purposes to the legislature and the department; (2) promotes consistency and accuracy in evaluating client support needs for purposes of planning, budgeting, and

resource management; (3) identifies a level of service and/or number of care hours that is used to support the assessed needs of clients who have been authorized to receive Medicaid/waiver personal care, waiver respite care, and/or voluntary placement program services; and (4) records clients service requests.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Title 71A RCW.

Adopted under notice filed as WSR 07-03-158 on January 23, 2007.

Changes Other than Editing from Proposed to Adopted Version: There have been no changes other than minor editing to improve clarity in the proposed rule.

(Strikeouts indicate words deleted from proposed rules. Underlines indicate words added to proposed rules.)

WAC 388-828-1120

(1) You have not identified a person willing to receive notice or correspondence on your behalf regarding specific DDD decisions as required per RCW 71A.10.060 and DDD does not believe you are capable of understanding department decisions that may affect your care (See WAC 388-828-1140); or

(2) A respondent cannot be identified to participate in your DDD Assessment (See WAC 388-828-1540(c));

WAC 388-828-1140

If there is no one available to receive notice or correspondence on your behalf regarding specific DDD decisions, DDD will do all of the following:

WAC 388-828-1360

(2) You or your legal guardian has ~~have~~ not identified an ADSA contracted provider.

WAC 388-828-1380

If you are unable to identify an ADSA contracted provider, DDD will provide you or your legal guardian with contact information for ADSA contracted agency providers.

WAC 388-828-1460

DDD intends to assess all clients per WAC 388-828-1100 by June 30, 2008 based on available resources.

(4) ~~You are not receiving a paid service and~~ You are approved for funding of a DDD paid service and an assessment must be performed prior to the authorization of services;

WAC 388-828-1620

(8) Private Duty Nursing services per chapter 388 ~~106554~~ WAC; or

A final cost-benefit analysis is available by contacting Mark R. Eliason, P.O. Box 45310, Lacey, WA 98504-5310, phone (360) 725-2517, fax (360) 407-0995, e-mail eliasmr@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 126, 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 126, Amended 0, Repealed 0.

Date Adopted: April 23, 2007.

Blake D. Chard
for Robin Arnold-Williams
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 07-11 issue of the Register.

WSR 07-10-032

PERMANENT RULES

GAMBLING COMMISSION

[Order 609—Filed April 24, 2007, 11:54 a.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques (rules simplification project). We anticipate the project will be completed and implemented January 1, 2008. The rules manual is being broken into sections and rewritten a section at a time. Any substantive changes made to rules related to charitable and nonprofit organizations are identified below which outline the changes. This new chapter incorporates rules that relate in general to charitable and nonprofit organizations.

Overview of chapter 230-07 WAC, Charitable and nonprofit rules changes:

WHOLE CHAPTER RULE CHANGE: In several of the pre-January 1, 2008, rules, the director or director's designee approves or takes an action. We have reevaluated the rules with these director delegations with Director Day and made policy decisions about which of the post-January 1, 2008, rules require the director to become involved and which may be delegated to commission staff.

Pre-January 1, 2008, WAC 230-02-137 Excessive reserves defined and 230-08-255 Bona fide charitable or nonprofit organizations—Qualification review—Significant progress required—Exception.

Post-January 1, 2008, WAC 230-07-045 Obtaining a waiver for significant progress requirements, 230-07-050 Defining "excessive reserves," and 230-07-080 Qualification reviews for Groups III, IV and V.

WHOLE CHAPTER RULE CHANGE: The pre-January 1, 2008 rules, have "calendar year," "license year," "fiscal year," "preceding 12 months," and other variations of wording when discussing the period for which charitable or nonprofit organizations keep records. Because the rules were written at different times, these inconsistencies crept into the language.

We discovered as we were writing the post-January 1, 2008 rules, that RCW 9.46.0209 requires, "An organization

must demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal." Therefore, staff will begin realigning licensees' renewal periods to fit with their fiscal years, so that they will continue to report on their fiscal year, but it will match our statutory requirement that the data record the twelve months preceding licensing or renewal.

Therefore, in the post-January 1, 2008 rules, we changed all references to the time for which licensees report their financial data to "fiscal" year. This change will add consistency to the reporting period in the post-January 1, 2008 rules.

Pre-January 1, 2008, WAC 230-08-015 Certain lower volume licensees may meet reduced record-keeping requirements, 230-08-095 Minimum standards for monthly and annual accounting records—Charitable or nonprofit organizations, 230-08-122 Annual progress and financial report—All nonprofit and charitable organizations, 230-08-125 Annual activity reports—Certain activities operated by charitable or nonprofit organizations, and 230-08-250 Annual activity reports by agricultural fairs and other bona fide charitable or nonprofit organizations with special location licenses to conduct bingo, raffles, and amusement games.

Post-January 1, 2008, WAC 230-07-125 Record-keeping requirements for lower volume charitable or nonprofit organizations, [230-07-140] Minimum accounting records for Class D and above bingo licensees and licensees with combined activities over \$500,000, 230-07-020 Making "significant progress," 230-07-145 Reporting annual progress, 230-07-155 Reporting annual activity for raffles, amusement games, Class A, B, or C bingo, or combination licenses, and 230-07-160 Reporting annual activity for agricultural fairs.

SUBSTANTIVE INDIVIDUAL RULE CHANGES: Post-January 1, 2008, WAC 230-07-045 Obtaining a waiver for significant progress requirements. The pre-January 1, 2008 rule, states that if an organization "is unable to demonstrate it has made significant progress by complying with the financial standards and procedures set forth elsewhere in this section, the organization" may request the director to waive all or portions of the requirements. "[I]f a waiver will be denied," a hearing with the director "pursuant to WAC 230-50-010(6)" is held.

We changed the post-January 1, 2008 rule, so that an administrative law judge (ALJ) would conduct the hearing, not the director. It seemed to us that the hearing was intended to offer an unbiased opinion of the merits of the organization's case and, like other hearings, it ought to be held before someone with no ties to the agency.

Post-January 1, 2008, WAC 230-07-050 Defining "excessive reserves." The pre-January 1, 2008 rule, in subsection (1), says "cash equivalents or other assets." We believe that the intent of the rule was to say "**and** other assets" because the rule is asking for a "total amount" of assets.

We changed the post-January 1, 2008 rule, to clarify the definition of "excessive reserves" and to make it easier for licensees to understand the rule and alleviate the possible confusion related to language use. This will make it easier for organizations to determine if they have excessive reserves

and ultimately if they are in compliance with reporting requirements.

Post-January 1, 2008, WAC 230-07-060 Independent management structure required. In the post-January 1, 2008 rule, we make clear that part of licensees maintaining an independent management structure is supervising and operating gambling activities according to gambling laws and our rules. The pre-January 1, 2008 rule, doesn't state outright that licensees have to follow chapter 9.46 RCW.

Post-January 1, 2008, WAC 230-07-070 Defining "direct relatives." The pre-January 1, 2008 rule, written in 1993 and last revised in 2000, states that conflicts of interest must be avoided. A presumption of a conflict of interest exists when officers "... are directly or indirectly responsible for supervision of, or have decision-making authority over transactions that may result in direct or indirect financial or personal benefit to: Their direct relatives, including spouses, parents, children, siblings, **and similar relationships**, whether by blood, adoption, or marriage..." The phrase "and similar relationships" can be construed in a number of different ways.

We decided to add a very concise definition for the phrase "direct relatives" into the post-January 1, 2008 rule, that says, "'Direct relative' means spouses, parents, grandparents, uncles, aunts, children, siblings, nieces, or nephews, whether by blood, adoption, or marriage."

Post-January 1, 2008, WAC [230-07-125] Lower volume charitable or nonprofit organizations record-keeping requirements and 230-07-130 Additional recordkeeping for charitable or nonprofit licensees. We removed the phrase "unless we release them from this requirement" from the pre-January 1, 2008 rule, because, in practice, we do not release licensees from the requirement to maintain the records. Neither do licensees ask to be released from the requirement.

Post-January 1, 2008, WAC 230-07-140 Class D and above bingo licensees and licensees with combined activities over \$500,000 minimum accounting records. We made two changes in the post-January 1, 2008 rule:

(1) To reduce redundancy, we removed the pre-January 1, 2008 rule, language, "instructions for activity reports;" "double entry;" and "Record all income when earned; and record all expenses when incurred," as well as "A listing of all liabilities" and "A complete general ledger system if licensees have substantial assets or liabilities," and "bank statements, related deposit slips, and cancelled checks or facsimiles of cancelled checks." Each of these is a basic tenet of generally accepted accounting principles which we require licensees to follow for minimum accounting requirements; and

(2) Recording expenses allocated to various functions (pre-January 1, 2008 rule, subsection (7)) has been removed because the concept and process are covered elsewhere.

The final change to post-January 1, 2008 rule, is the only change that could be called substantive because we removed inconsistencies between two dollar limits that appear in the rule: In the title and introductory section, the pre-January 1, 2008 rule, cites \$500,000 as the dollar amount licensees must exceed in order to be required to perform certain accounting procedures, but further down in the rule, it names \$300,000 as the limit.

Post-January 1, 2008, WAC 230-07-145 Reporting annual progress. We removed from the pre-January 1, 2008 rule, a large number of the "laundry list" of items to be included on the annual progress report because what is required is listed on a form licensees must complete.

Throughout the rules simplification project, we changed the wording of other pre-January 1, 2008 rules, to align the forms we give licensees with the wording in the rules. For this particular rule, items that have been removed are on the licensing operations division form.

A second change we made was to remove pre-January 1, 2008 rule, subsection (18) which states that we "may request licensees in Group II to submit financial statements and other information required by this rule in order to evaluate the organization's qualification." We do not request those documents; instead, we use other means to evaluate an organization's qualifications.

Finally, we changed subsection (9) of the pre-January 1, 2008 rule, to add the phrase "direct relatives" rather than use the list in the pre-January 1, 2008 rule. We propose this change to add consistency between rules. It does, however, increase the number of people licensees must report.

The changes in the first subsections have no impact. We are already requiring licensees to submit these documents. The change to subsection (9) is more restrictive, but adds consistency between rules.

Post-January 1, 2008, WAC 230-07-150 Financial statements required for Groups III, IV, and V. In the post-January 1, 2008 rule, we require charitable or nonprofit licensees to use an *independent* certified public accountant, not just a *licensed* public accountant to prepare their financial statements. Without this change, a licensee could have an in-house accountant who is also a licensed CPA prepare the records rather than an independent CPA.

Many licensees are already using independent CPAs; we're codifying what is the current practice.

Post-January 1, 2008, WAC [230-07-155] Reporting annual activity for raffles, amusement games, Class A, B, or C bingo, or combination licenses. In this post-January 1, 2008 rule, we removed a large number of the "laundry list" of items to be included on the annual progress report because what is required is listed on a form licensees must complete.

Post-January 1, 2008, WAC 230-46-100 Bona fide charitable nonprofit organizations—Limited social card games without obtaining a license—Conditions. We removed this requirement from the post-January 1, 2008 rule, because during the recodification of the statute, our statutory authority to allow this unlicensed activity was omitted. The law only allows charitable or nonprofit organizations that have a Class H liquor license to conduct card games without a separate card game license.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 07-05-017 on February 12, 2007, and published March 7, 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 33, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 33, 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 33, Amended 0, Repealed 0.

Date Adopted: April 24, 2007.

Susan Arland
Rules Coordinator

Chapter 230-07 WAC

CHARITABLE AND NONPROFIT RULES

NEW SECTION

WAC 230-07-001 Defining "charitable or nonprofit licensee." In this section of the rules, "charitable or nonprofit licensees" means the same as a bona fide charitable or nonprofit organization as defined in RCW 9.46.0209.

NEW SECTION

WAC 230-07-005 "Licensees," "licensee," "organizations," and "organization" defined. (1) In this section of the rules, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct gambling activities.

(2) In this chapter, "organization" and "organizations" means:

- (a) Licensees; and
- (b) All bona fide charitable or nonprofit organizations conducting unlicensed gambling activities authorized by chapter 9.46 RCW.

NEW SECTION

WAC 230-07-010 Use of gambling proceeds. (1) Except qualified agricultural fairs, charitable or nonprofit organizations must use all net income from gambling activities remaining after paying necessary expenses of operating the gambling activities exclusively for the lawful purpose(s) of the organization stated on the organization's license application.

(2) Licensees may conduct a gambling activity for the charitable benefit of specific person(s) whom the licensee has listed as recipient(s) of the proceeds, or a specified portion of the proceeds, if licensees obtain approval from us before they conduct the activity.

NEW SECTION

WAC 230-07-015 Regulatory group assignments. (1) We assign charitable or nonprofit licensees to regulatory groups based on the annual gross gambling receipts for their combined licensed activities.

(2) Licensees must comply with requirements applicable to the regulatory group to which we have assigned them. The regulatory groups are:

(a) Group I	Combined annual gross receipts up to three hundred thousand dollars.
(b) Group II	Combined annual gross receipts up to one million dollars.
(c) Group III	Combined annual gross receipts up to three million dollars.
(d) Group IV	Combined annual gross receipts up to five million dollars.
(e) Group V	Combined annual gross receipts over five million dollars.

NEW SECTION

WAC 230-07-020 Making "significant progress."

Charitable or nonprofit licensees in Groups IV and V must make "significant progress" toward their stated purpose. They have made "significant progress" when they have:

- (1) Complied with all requirements set forth in their bylaws and articles of incorporation; and
- (2) Actively engaged in providing services to the public or their members during the fiscal year under review, and the services directly relate to the stated purposes of the organization; and
- (3) Held elections to select officers at least once in the previous two years; and

(4) Held a general membership meeting to conduct the business of the organization at least once in the previous two years; and

(5) Used a substantial portion of the licensees' "available resources" for providing program services during the fiscal year under review. For purposes of this section, "available resources":

- (a) Include the income generated by or from:
 - (i) The net of all activities used to raise funds, including net gambling income; and
 - (ii) Grants, gifts, and contributions from private sources; and
 - (iii) Public support.
- (b) Does not include:
 - (i) Funds generated in periods other than the fiscal year under review; or
 - (ii) Funds that are raised or contributed from outside the organization for purposes of purchasing land or capital assets or to endow future operations when those funds are specifically identified by the board or contributors as restricted and separately recorded in the organization's records; or
 - (iii) Net income from the sale of assets; or
 - (iv) Fees paid by members or the public to receive services or to participate in specific activities. (Example: Fees to attend a swimming lesson or event.) These fees must be classified as a reduction to both program service and supporting service expenses on a pro rata basis and as a reduction to resources available for providing services in the fiscal year. (Example: In the chart below, licensee X has revenue of five thousand dollars. They must calculate the pro rata reduction by adjusting the total by the percentages of support services, program services expenses, and functional expenses.)

Revenue					
Fees paid by public					\$5,000
Calculation:					
Expenses	Unadjusted Amount	% of Total	Pro Rata Reduction Fees Paid by Public (\$5,000)	% of Total	Adjusted Amount
Support Service Expense	\$35,000	32%	(\$1,591)	32%	\$33,409
Program Service Expense	\$75,000	68%	(\$3,409)	68%	\$71,591
Functional Expenses	\$110,000	100%	(\$5,000)	100%	\$105,000

NEW SECTION

WAC 230-07-025 Additional requirements for "significant progress" for Groups IV and V. In addition to meeting the significant progress requirements for Groups I, II, and III, Group IV and V charitable or nonprofit licensees must also prove they:

- (1) Expended at least sixty percent of net gambling income earned in the licensee's most recently completed fiscal year on "functional expenses" to operate the organization's programs; and
- (2) Used no more than thirty-five percent of total functional expenses to provide supporting services. If licensees used more than fifty percent of total program services

expenses to provide program services through indirect methods (those which are external to the organization), such as grants, contributions, and/or scholarships, then supporting services expenses must not exceed twenty percent of functional expenses.

NEW SECTION

WAC 230-07-030 Defining "functional expenses." "Functional expenses" means those expenses a charitable or nonprofit licensee incurs toward accomplishing its stated purpose(s). Functional expenses include both "program services" and "supporting services."

NEW SECTION

WAC 230-07-035 Defining "program service expenses." (1) "Program service expenses" means those expenses relating to providing care, support, or assistance to individuals, or sponsoring or conducting activities that directly relate to the licensee's stated purpose(s).

(2) We consider "program service expenses" services the licensee provided:

- (a) Directly through programs to the public or the licensee's members; or
- (b) Indirectly through:
 - (i) Contributions to individuals or to other service-providing organizations; or
 - (ii) Funding scholarships; or
 - (iii) Sponsoring activities directly related to any organizational purposes.

(3) We consider soliciting new members or volunteers, or announcements and publications intended to educate the public about specific services or programs to be program service expenses.

(4) Expenses allocated to more than one service must be divided out according to their function. Licensees must document the methods of allocation and make them available for our review.

NEW SECTION

WAC 230-07-040 Defining "supporting service expenses." (1) "Supporting service expenses" means those expenses relating to activities that are essential to the general operation of the licensee's programs, but which are not directly identifiable to a specific program. Supporting service expenses typically include:

- (a) Management; and
 - (b) General overhead; and
 - (c) Any expenses related to soliciting contributions.
- (2) We consider the following supporting service expenses:
- (a) Wages and benefits for persons involved in the general operation of the organization, such as:
 - (i) Executive directors and other management; or
 - (ii) Support personnel like secretaries, receptionists, and bookkeepers; and
 - (b) Expenses related to:
 - (i) Providing an administrative office, including rent, depreciation, interest, utilities, taxes, insurance, and supplies; and
 - (ii) General management functions of the organization such as planning and budgeting, recruiting and training staff, and purchasing and distributing materials; and
 - (iii) Scheduling and conducting board, committee, and membership meetings; and
 - (iv) Publicizing the general organization; and
 - (v) Outside supporting services such as accounting, audit, and legal; and
 - (vi) Soliciting contributions or grants; and
 - (vii) Any net loss from nongambling fund-raising activities.

(3) Supporting service expenses do not include items which are unusual and infrequent in nature, for example, repairs from a fire.

(4) Expenses allocated to more than one service must be divided out according to their function. Licensees must document the methods of allocation and make them available for our review.

NEW SECTION

WAC 230-07-045 Obtaining a waiver for significant progress requirements. (1) If a charitable or nonprofit licensee is unable to demonstrate that it has made significant progress, the licensee may request, in writing, a waiver for all, or a portion, of the requirements.

- (2) In the waiver request, the organization's board must:
- (a) Acknowledge that it is aware of the circumstances; and
 - (b) Show it has taken steps to correct the situation which prevented compliance; and
 - (c) Show it has approved a plan that addresses delivery of program services in the future; and
 - (d) Show that the organization expended at least twenty-five percent of its net gambling income to provide program services in the period under review. We may consider the purchase of nondepreciable assets for program purposes as part of this percentage.

(3) When deciding to approve or deny a waiver, we consider whether the licensee:

- (a) Had a temporary inability to comply due to unusual circumstances; and
- (b) Is reserving funds to start or expand specific programs in the future; and
- (c) Used a substantial amount of capital assets that are not subject to depreciation or amortization to provide program services, for example, fully depreciated building or equipment; fully amortized leasehold improvements; assets which are not normally depreciated, such as land used for athletic fields, riding areas, or parks; and
- (d) Conducted a substantial portion of its services through volunteers.

(4) If we deny the waiver, the licensee may request a brief adjudicative hearing before an administrative law judge under the provisions of Title 230 WAC and chapter 34.05 RCW.

NEW SECTION

WAC 230-07-050 Defining "excessive reserves." (1) "Excessive reserves" means the total amount of the licensee's cash, cash equivalents, and other assets that would not normally be associated with providing programs or fund-raising activities is greater than the sum of:

- (a) The licensee's current liabilities, which means debts due within one year; plus
- (b) Total functional expenses during the most recently completed fiscal year; plus
- (c) The average net income or loss from combined gambling and retail sales conducted in conjunction with gambling activities for a three-month period. This average is calculated

by dividing annual net gambling and retail sales income or loss by four.

(2) However, we may approve the exclusion of funds reserved to start or expand specific programs from the computation of excessive reserves.

NEW SECTION

WAC 230-07-055 Prorating expenses when gambling funds are not kept separate. When charitable or nonprofit

organizations do not keep gambling income separate from all other income of the organization, the amount of net gambling income required to provide functional expenses in the fiscal year under review must be the pro rata portion of net gambling income compared to the total net revenue from all sources. (Example: In the chart below, Organization X has revenue of five thousand dollars. They must calculate the pro rata reduction by adjusting the total by the percentages of support services, program services, and functional expenses.)

Revenue					
Fees paid by public					\$5,000
Calculation:					
Expenses	Unadjusted Amount	% of Total	Pro Rata Reduction Fees Paid by Public (\$5,000)	% of Total	Adjusted Amount
Support Service Expense	\$35,000	32%	(\$1,591)	32%	\$33,409
Program Service Expense	\$75,000	68%	(\$3,409)	68%	\$71,591
Functional Expenses	\$110,000	100%	(\$5,000)	100%	\$105,000

NEW SECTION

WAC 230-07-060 Independent management structure required. (1) Charitable or nonprofit organizations and their officers or board of directors have an affirmative responsibility to conduct gambling activities according to the legislative intent in chapter 9.46 RCW.

(2) Organizations must develop and maintain an independent management control system that ensures they:

- (a) Create an operating environment that makes it possible to implement the policies of the officers or board of directors; and
- (b) Supervise and operate gambling activities according to gambling laws and our rules; and
- (c) Protect all assets of the organization from misuse or embezzlement; and
- (d) Use gambling proceeds solely to advance the purposes of their organization.

NEW SECTION

WAC 230-07-065 Group III, IV, and V management control system. Charitable or nonprofit licensees assigned to Groups III, IV, and V must develop and implement a management control system that:

- (1) Is overseen by an independent group of officers or board of directors who have been elected by a process in which all full and regular members have a single vote; and
- (2) Includes written policies which set the responsibilities of and establish the scope of authority delegated to officers, board of directors, and employees; and
- (3) Includes affirmative management and accounting controls to ensure that all funds and other assets directly or indirectly obtained with gambling proceeds are protected from misuse, are dedicated solely to the purposes of the organization, and do not inure to the private use of any person.

For purposes of this section, we do not consider the following uses of gambling proceeds inurement:

- (a) Providing program services to members or the public; or
- (b) Costs for necessary expenses, including salaries or wages for services to perform the purposes of the organization. Salaries or wages paid to members, officers, board of directors, or their direct relatives, are not inurement if they are necessary, reasonable, and an independent management system makes the decision to pay them; and
- (4) Includes a planning process to set goals for uses of gambling proceeds and allows the officers or board of directors to monitor progress toward those goals. Organizations reserving funds in endowments or trust funds must have a formal business plan or budget outlining uses of those funds; and
- (5) Includes a system of internal accounting controls designed to reduce errors, minimize the risk of embezzlement, and safeguard assets. The licensee's officers or board of directors must implement procedures to monitor established controls for compliance. The internal accounting control system must include at least:
 - (a) Management approval for expenditures; and
 - (b) Access to assets is restricted to those individuals management authorizes; and
 - (c) Recording procedures for all transactions in accordance with generally accepted accounting principles (GAAP). Licensees must record transactions with enough detail to maintain accountability for assets; and
 - (d) Periodic comparison of recorded assets to physical assets and reconciliation of all differences. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

(6) Is documented and available for our review.

NEW SECTION

WAC 230-07-070 Defining "direct relatives." "Direct relative" means spouses, parents, grandparents, uncles, aunts, children, siblings, nieces, or nephews, whether by blood, adoption, or marriage.

NEW SECTION

WAC 230-07-075 Conflicts of interest. (1) Charitable or nonprofit organizations have an independent operating environment when their officers or board members and supervisory level employees have completely separated their personal interests from the interests of the organization.

(2) If individual officers or board members acknowledge potential conflicts of interest and abstain from voting on issues that directly or indirectly affect their personal interest, the organization is operating independently.

(3) The governing board of the organization must review any potential conflicts of interest involving supervisory level employees. They must record all discussions or balloting regarding potential conflicts of interest in the official meeting minutes.

(4) We will presume organizations lack an independent operating environment if the governing board fails to approve and document in the official meeting minutes any of the following by the officers, board members, or supervisory level employees:

(a) Receiving, directly or indirectly, financial or personal benefit from the organization or share in gambling proceeds of the organization; or

(b) Supervising, directly or indirectly, or having decision-making authority over transactions that may result in direct or indirect financial or personal benefit to:

(i) Their direct relatives; or

(ii) Persons with whom they maintain a common household; or

(iii) Persons with whom they have a business relationship; or

(c) Allowing others, directly or, through lack of action, indirectly, to receive or share in the gambling proceeds of the organization.

NEW SECTION

WAC 230-07-080 Qualification reviews for Groups III, IV and V. (1) We may review charitable or nonprofit licensees assigned to Group III and may prepare a summary of the organization's qualifications for the commissioners' review.

(2) We will review licensees assigned to Group IV and V and prepare a summary of the organization's qualifications for the commissioners' review at a public meeting every three years. At least one representative from the organization must attend the meeting when staff presents their qualification review.

NEW SECTION

WAC 230-07-085 Compensating gambling management and operations personnel. (1) Charitable or nonprofit licensees must not base compensation for any employee taking part in the management or operation of the gambling activities on a percentage of the receipts or income derived from the operation of the gambling activity.

(2) Licensees must pay employees taking part in the management or operation of gambling activity a wage that is reasonable under the prevailing local wage scale for comparable employment. Wages greater than the local prevailing wage create a presumption of a violation.

NEW SECTION

WAC 230-07-090 Keeping and depositing all gambling funds separate from other funds. Charitable or nonprofit licensees must protect all funds generated from gambling activities and keep these funds separate from their general funds.

(1) Licensees must:

(a) Keep a separate gambling receipts account(s) in a recognized Washington state bank, mutual savings bank, or credit union; and

(b) Deposit only gambling receipts into that account. Licensees may deposit receipts from nongambling activities operated in conjunction with bingo games into the gambling receipts account if the licensee keeps detailed receipting records of the nongambling receipts; and

(c) Deposit all gambling receipts first into the account before spending or transferring them into other accounts, except for prize pay outs; and

(d) Deposit funds received from commercial amusement game operators operating amusement games on their premises in the licensee's gambling receipts account no later than the second banking day after they receive the receipts; and

(e) Make all deposits of net gambling receipts from each activity separately from all other deposits, and keep the validated deposit receipt as a part of their records. Deposit receipts are a part of the applicable daily or monthly records and licensees must make them available for our inspection; and

(f) Deposit all net gambling receipts which they are holding, pending pay out:

(i) From bingo, no later than the second banking day after they receive them. Licensees may withhold bingo receipts from deposits for "jar," "pig," or other special game prizes if the total of all such prize funds does not exceed two hundred dollars, enter the amount withheld each session in the bingo daily record, and record the reconciliation of the special game fund on the bingo daily record. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records; and

(ii) From raffles (Class E and above) and amusement games (Class D and above), at least once each week; and

(iii) From punch board and pull-tabs, including cost recovery for merchandise prizes awarded, no later than two

banking days after they remove the board or series from play; and

(g) Record the Washington state identification number assigned to the punch board or pull-tab series and the amount of net gambling receipts on the deposit slip/receipt. Licensees may record the number and the receipts on a separate record if they record the bank validation number and maintain the record with the deposit slip/receipt; and

(2) These requirements do not apply to organizations who:

- (a) Conduct only one or more of the following activities:
 - (i) Raffles under the provisions of RCW 9.46.0315;
 - (ii) Bingo, raffles, or amusement games under the provisions of RCW 9.46.0321;
 - (iii) Class A, B, or C bingo game;
 - (iv) Class A, B, C, or D raffle; or
 - (v) Class A, B, or C amusement game; and
- (b) Do not have any other license(s) from us.

NEW SECTION

WAC 230-07-095 Fund-raising events and members only raffles exempt from deposit requirements. Bona fide charitable or nonprofit organizations that conduct only fund-raising events or members only raffles and have no other gambling licenses are exempt from having a separate gambling receipts account, but they must:

- (1) Make no expenditures, other than for prizes, until the receipts have been deposited;
- (2) Deposit all net gambling receipts within two banking days; and
- (3) Keep the validated deposit receipt with their gambling records.

NEW SECTION

WAC 230-07-100 Special banking exemption for Point Roberts Peninsula. Charitable or nonprofit licensees that conduct activities on Point Roberts Peninsula, Washington, may deposit funds in British Columbia branches of Canadian banks. Licensees must provide us and their Canadian bank a written release for us to have unrestricted access to the licensee's Canadian bank records and the Canadian bank must provide written confirmation of its intent to honor the licensee's release.

NEW SECTION

WAC 230-07-105 Safeguarding prize inventory. (1) Charitable or nonprofit organizations must safeguard and prevent misuse or misappropriation of all assets, including items purchased, or donated, to use as prizes for gambling activities.

(2) Licensees must maintain an inventory control record for each item purchased or donated to use as prizes for gambling activities in the format we require.

NEW SECTION

WAC 230-07-110 Supervision requirements. Charitable or nonprofit organizations must closely supervise all per-

sons involved with the conduct of gambling activities to ensure that they follow all gambling laws and rules.

NEW SECTION

WAC 230-07-115 Duties of charitable or nonprofit gambling managers. Charitable or nonprofit gambling managers must:

- (1) Be knowledgeable of the laws and rules that relate to the operation of the gambling activities and the restrictions on the use of funds made from gambling activities for which they are responsible; and
- (2) Supervise the gambling activity, including all secondary activities, such as retail sales, conducted along with gambling activities; and
- (3) Ensure:
 - (a) The business premises are maintained in a safe condition and persons participating in the activity are reasonably protected from physical harm; and
 - (b) Fair and equal participation by players in gambling activities; and
 - (c) All records are completed and correct; and
 - (d) All funds are disbursed or invested according to the directions of the officers or governing board and are used solely to further the charitable or nonprofit purpose(s) of the organization; and
 - (4) Protect:
 - (a) The public from fraud; and
 - (b) The organization from players or workers committing illegal acts; and
 - (c) All gambling assets of the organization from misuse or theft; and
 - (5) Safeguard funds or other assets made from gambling and secondary activities for which he or she is responsible until directly deposited in the organization's bank account.

NEW SECTION

WAC 230-07-120 Notifying us of changes in responsibilities of charitable or nonprofit gambling managers.

- (1) A charitable or nonprofit organization must notify us in writing when a gambling manager:
 - (a) Has been assigned primary responsibility for operating any gambling activity or disbursing funds; or
 - (b) Has terminated employment or responsibilities.
- (2) Individuals required to be licensed under WAC 230-03-235 must immediately submit a license application.
- (3) Licensees assigning gambling managers who do not require a license under WAC 230-03-145(4) must notify us in writing within ten days of changes in responsibilities by submitting:
 - (a) The full name and date of birth of the gambling manager; and
 - (b) The date the gambling manager was assigned new responsibilities or the date employment or responsibilities terminated; and
 - (c) A full description of the change in duties or responsibilities; and
 - (d) The highest ranking elected officer or the individual assigned the responsibility of supervising the gambling manager must sign the notification.

**RECORDKEEPING FOR
LOWER VOLUME LICENSEES**

NEW SECTION

WAC 230-07-125 Recordkeeping requirements for lower volume charitable or nonprofit organizations. (1) Organizations operating without a license under RCW 9.46.0315 or 9.46.0321 and lower volume charitable or nonprofit licensees must keep a set of permanent monthly records of the gambling activities. Lower volume licensees include:

- (a) Fund-raising events;
- (b) Bingo (Classes A, B, and C);
- (c) Raffles (Classes A, B, C, and D);
- (d) Amusement games (Classes A, B, C, and D); and
- (e) Card games (Classes A, B, and C).

(2) The monthly records must include, at least:

- (a) The gross receipts from each activity;
- (b) The total amount of cash prizes actually paid out;
- (c) The total of the cost to the licensee of all merchandise prizes actually paid out for each activity;
- (d) A summary of all expenses related to each of the activities; and
- (e) The net income received from the activity, the purpose(s) for which the net income was raised, and the amount paid to each recipient.

(3) Licensees must keep these records for three years from the end of the license year for which the record was created.

(4) Organizations operating under RCW 9.46.0315 or 9.46.0321 must maintain their records for one year.

**RECORDKEEPING AND ACCOUNTING
STANDARDS**

NEW SECTION

WAC 230-07-130 Additional recordkeeping for charitable or nonprofit licensees. (1) Charitable or nonprofit licensees, except agricultural fairs, must maintain records which clearly show how the licensee used or disbursed the funds from each licensed activity. These records must provide an audit trail satisfactory for us to verify that the funds were used for the licensees' stated purpose(s). These records must include, at least, canceled checks for the disbursements.

(2) Charitable or nonprofit licensees must keep these records for three years from the end of the license year for which the record was created.

NEW SECTION

WAC 230-07-135 Recording gifts. Charitable or nonprofit licensees must keep a written record for each gift which they have given to customers with an actual cost over one hundred dollars. Authorized "gifts" are defined in WAC 230-06-035. The record must include:

- (1) How they selected the recipients;
- (2) The number of gifts; and

(3) The total cost of each gift.

NEW SECTION

WAC 230-07-140 Minimum accounting records for Class D and above bingo licensees and licensees with combined activities over five hundred thousand dollars. Class D and above bingo licensees and licensees who are authorized for more than five hundred thousand dollars gross gambling receipts from combined gambling activities during any fiscal year must keep accounting records necessary to document all receipts, costs, and disbursements, including, at least, those related to gambling activities.

Requirements for accounting records

For these accounting records, licensees must:

- (1) Conform to generally accepted accounting principles (GAAP) except as modified by other commission rules; and
- (2) Include, at least:
 - (a) A cash disbursements journal and/or check register;
 - (b) A cash receipts and/or sales journal;
 - (c) A list of all assets the licensee paid for;
 - (d) A listing of all liabilities;
 - (e) A complete general ledger system; and
 - (f) A list of all donated items valued at more than two hundred fifty dollars; and

Donated items

(3) Document donated items. Licensees must:

- (a) Use the fair market value at the time of donation;
- (b) Add items to the list no later than thirty days after receiving them;
- (c) Remove items when they no longer have legal ownership; and
- (d) Not remove an item from the list, even if it has become obsolete or completely depreciated, until management has completed and documented appropriate review. A depreciation schedule for all capitalized items is sufficient; and

(e) Add items to the list when they convert items from gambling merchandise prize inventory to licensee use. This list must include, at least:

- (i) A description of the item;
- (ii) The date purchased, acquired by donation, or converted from the gambling prize pool;
- (iii) The cost at the time of purchase or, if donated, the fair market value at the time received; and
- (iv) The date and method of disposition of the item; and

Method of accounting

- (4) Use the accrual method of accounting; and
- (5) The cash, modified cash, or tax basis accounting methods may be used only if that method accurately represents the licensee's financial position, the results of operations, and the licensee does not have substantial liabilities or expenses, such as depreciation or amortization expenses, which require a current outlay of cash; and

Expenditures for nongambling activities

(6) Sufficiently document all expenditures relating to nongambling activities in order to provide a satisfactory audit trail and to allow us to verify that the funds were used for the licensee's stated purpose(s); and

Expenditures for gambling activities

(7) Sufficiently document all of the licensee's expenditures relating to gambling activities. Canceled checks and bank statements are not sufficient documentation for expenditures without additional support. Licensees must provide additional support for expenditures, including:

(a) Invoices or other supporting documents from commercial vendors or service agencies with at least:

(i) The name of the person or entity selling the goods or providing the services;

(ii) A complete description of goods or services purchased;

(iii) The amount of each product sold or services provided;

(iv) The price of each unit;

(v) The total dollar amount billed; and

(vi) The date of the transaction.

(b) Documentation, in the form of checks and other written records of disbursements in excess of twenty-five dollars made directly to individuals who do not furnish normal, business type, invoices or statements. The written records must indicate at least:

(i) The name of the person receiving the payment;

(ii) The amount;

(iii) The date; and

(iv) The purpose; and

(8) Document allocated expenditures that relate to more than one function to the various functions. Licensees must document their methods of allocation and make them available for our review; and

Capitalizing assets

(9) Include a capitalization policy based on materiality and expected life of operating assets. To determine a minimum level for capitalizing assets, licensees must:

(a) Capitalize and depreciate, or amortize over the useful life of the asset, any assets of more than two thousand dollars that have a useful life of more than one year; and

(b) Capitalize and depreciate, or amortize over sixty months, beginning with the first month that bingo games are conducted, preoperating start up costs related to bingo games of more than six thousand dollars; and

(c) Amortize, over a period not longer than the life of the lease, any leasehold improvements related to gambling activities that are more than six thousand dollars. Licensees may extend the amortization period to include any lease option periods if the licensee's management states a reasonable expectation that they will use the lease option; and

(d) Charge all unamortized leasehold improvements as an expense of the gambling activities in the year that the lease expires.

REQUIRED ANNUAL REPORTSNEW SECTION

WAC 230-07-145 Reporting annual progress. Charitable or nonprofit licensees must report annually their progress toward meeting their stated purpose in the format we prescribe. This report must explain the type and scope of activities which licensees conducted during their last annual fiscal accounting period. In addition, the report must include, at least:

(1) A brief history of the licensed organization, including its stated charitable or nonprofit purpose(s);

(2) A written statement setting out their goals for meeting their stated charitable or nonprofit purpose(s) in the future;

(3) The number of full and regular members;

(4) A list of contributions, scholarships, grants, or sponsorships made during the period. This list must include:

(a) The name of each organization or individual receiving a contribution from the licensee. The licensee may use the phrase "individual contribution" in place of the recipient. If the recipient is not named in the report, the licensee must maintain records to verify and identify the recipient of each individual contribution; and

(b) Whether funds awarded were from gambling income or other funds; and

(5) Gross income from all nongambling activities and the source of the income;

(6) The revenue and expenses for any nongambling sales activities, presented separately, when conducted primarily in conjunction with gambling activities;

(7) Total expenses for both charitable or nonprofit services;

(8) The percentage or extent to which the licensee used net gambling income for charitable as distinguished from nonprofit purposes; and

(9) The details of any loans, contracts, or other business transactions with related parties that accumulatively exceed one thousand dollars during the period. "Related parties" means officers, board members, key employees, or members of the licensed organization, including direct relatives of each.

NEW SECTION

WAC 230-07-150 Financial statements required for Groups III, IV, and V. (1) In addition to information required in WAC 230-07-028, charitable or nonprofit licensees in Groups III, IV, and V must also submit complete financial statements prepared in accordance with generally accepted accounting principles (GAAP).

(2) Licensees in Groups IV and V must have the financial statements prepared by an independent certified public accountant.

(3) The statements and all required disclosures or footnotes no later than one hundred twenty days following the end of the licensee's fiscal year.

(4) The financial statements must include:

(a) A statement of financial position;

(b) A statement of activities. This statement may be presented in a consolidated form if licensees provide the details of each component as supplemental information. Licensees must present revenue and expenses for each activity separately as follows:

- (i) Each gambling activity; and
- (ii) Retail sales conducted in conjunction with gambling activities;
- (c) A statement of cash flows;
- (d) A statement of functional expenses;
- (e) In addition to all disclosures required by GAAP, the financial statements must disclose the following:
 - (i) Loans to or from officers, board members, and employees: We will not consider employee salary advances of five hundred dollars or less as loans. Details of all terms, including interest rates and payment schedules, must be disclosed;
 - (ii) All civil penalties, fines, bribes, or embezzlements incurred or discovered during the period; and
 - (iii) An explanation of any adjustments made to prior period capital accounts or net asset balances;
 - (f) An explanation of material differences between amounts reported on gambling activity reports and the financial statements.

(5) We may require additional information to ensure completeness of the information reported.

(6) We may grant an organization additional time to submit the information required if a written request is received before the due date. The president of the organization must sign any request for additional time and include a statement explaining the hardship causing the delay, and the expected date the required report(s) will be submitted.

NEW SECTION

WAC 230-07-155 Reporting annual activity for raffles, amusement games, Class A, B, or C bingo, or combination licenses. (1) Raffle, amusement game, Class A, B, or C bingo, or combination licensees must submit an annual report of all their activities in the format we require.

(2) We must receive the completed report in our office postmarked no later than thirty days following the expiration of their license(s).

(3) The highest ranking officer or his/her designee must sign the report.

(4) If the licensee has someone else prepare the report, then the preparer must include his/her name and phone number on the report.

(5) Licensees that operate retail sales activities in conjunction with bingo games must report the net income from those retail sales activities.

NEW SECTION

WAC 230-07-160 Reporting annual activity for agricultural fairs. (1) Charitable or nonprofit licensees who operate bingo, raffles, and/or amusement games only at agricultural fairs and other special properties and permittees as defined in WAC 230-03-015 who operate bingo under another's license at agricultural fairs and other special proper-

ties must submit an annual report of all their activities in the format we require.

(2) We must receive the completed report in our office postmarked no later than thirty days following the expiration of the license year.

(3) Permittees operating under another's license must provide the licensee with all information about the permitted operation that is needed by the licensee to complete the annual activity report not less than ten days before the time that we require the licensee to file his or her report.

(4) The highest ranking officer or his or her designee must sign the report. If the licensee has someone else prepare the report, then the preparer must include his or her name and phone number on the report.

WSR 07-10-033

PERMANENT RULES

GAMBLING COMMISSION

[Order 610—Filed April 24, 2007, 12:21 p.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques (rules simplification project). We anticipate the project will be completed and implemented January 1, 2008. The rules manual is being broken into sections and rewritten a section at a time. Any substantive changes made to rules related to bingo games are identified below which outlines the changes. This new chapter incorporates rules that relate to bingo games.

Overview of chapter 230-10 WAC, Bingo rules changes:

GLOBAL RULE CHANGES: We made a substantive change to bingo game records requirements: Several pre-January 1, 2008 rules, state that bingo licensees have to keep specific records as a part of their daily bingo records for one year. Other pre-January 1, 2008 rules, require two year retention for other records. Still others require three years as a minimum time to retain records. These pre-January 1, 2008 rules, were implemented at different times and, apparently, without comparing their requirements to other record retention rules.

In the interest of consistency in the post-January 1, 2008 rules, we have made the majority of records a part of the daily bingo records. Licensees retain daily bingo records for two years. This change of retention period will allow organizations to maintain a single set of records for a consistent amount of time.

Pre-January 1, 2008, WAC 230-08-080 Daily records—Bingo, 230-20-103 Bingo cards to be sold upon the premises—Exceptions, 230-20-104 Cash register method of receipting bingo income, 230-20-106 Electronically generated bingo card method of receipting bingo income, 230-20-108 Combination receipting method of receipting bingo income—Procedures, 230-20-115 Gift certificates, 230-20-192 Standards for disposable bingo cards—Requirements and definitions, 230-20-241 Player selection games, 230-20-240 Bingo equipment to be used, and 230-20-242 Activities conducted as a part of bingo games—Authorization—Restrictions.

Post-January 1, 2008, WAC 230-10-050 Electronically generated bingo cards additional requirements, 230-10-215 Player selection bingo game requirements, 230-10-220 Player selection bingo game card requirements, 230-10-225 Player selection bingo game restrictions, 230-10-280 Drawings for prizes, good neighbor prizes, and second element of chance prizes as part of bingo games, 230-10-290 Controlling entry guarantee tickets, 230-10-305 Gift certificates as bingo prizes, 230-10-320 Redeeming gift certificates, 230-10-335 Daily bingo records, 230-10-350 Recording bingo winners, 230-10-395 Cash register method of receipting for bingo income, 230-10-405 Retaining cash register receipts for cash register method of receipting for bingo income, 230-10-420 Ticket method of receipting bingo income, and 230-10-440 Combination receipting method for bingo income requirements.

GLOBAL RULE CHANGE: Directors have for a number of years delegated those decision-making duties to the deputy director, assistant directors, administrators, supervisors, special agents, and staff. In all of the following pre-January 1, 2008 rules, the director or director's designee approves or takes an action: WAC 230-20-170 Hours for bingo games, 230-20-242 Activities conducted as a part of bingo games—Authorization—Restrictions, 230-20-002 Shared facilities for bingo licensees—Separate management, and 230-20-005 Shared management and facilities for bingo licensees—Shared allocation of revenues and expenses.

Director Day reevaluated the rules with director delegations and made policy decisions about which of them actually require the director to become involved and which the director chooses to delegate to commission staff. The following post-January 1, 2008 rules, have these delegations to commission staff introduced into them: WAC 230-10-100 Hours for bingo games, 230-10-280 Drawings for prizes, good neighbor prizes, and second element of chance prizes as part of bingo games, 230-10-460 Shared bingo facilities, and 230-10-470 Sharing management and accounting for shared bingo facilities.

INDIVIDUAL RULE CHANGES:

Post-January 1, 2008, WAC 230-10-010 Defining "bingo game." We added a definition of "bingo game" to the other definitions about bingo. In this instance, we wish to clearly label what a bingo game is because many post-January 1, 2008 rules, use that phrase as opposed to "bingo session" when explaining compliance. We're clearly delineating the differences between "bingo sessions" and "bingo games."

Post-January 1, 2008, WAC 230-10-027 Renting bingo game equipment. This pre-January 1, 2008, WAC 230-20-370 Licensees may rent equipment to conduct amusement games, dates back to 1974 and has remained unchanged since. It was originally passed to allow small charitable or nonprofit organizations to rent equipment rather than buying it. The portion concerning who could rent equipment and from whom they could rent was written very broadly because of the bingo market at the time. Organizations wished to rent from other organizations and a few wished to rent from tribal governments operating bingo so we wrote the rule broadly enough to allow that.

The pre-January 1, 2008, requirement was included in an amusement game rule about renting equipment. We propose including this post-January 1, 2008 rule, in the bingo rules chapter so that it clarifies the requirements for renting bingo equipment. The rule used to state, "A bona fide charitable or nonprofit organization licensee, or any of its regular members, may rent or otherwise obtain equipment used by the organization to conduct bingo or amusement games from any person..." We removed the phrase "regular members" because regular members aren't usually allowed to rent equipment—the bingo manager for licensees or the president or some other officer of unlicensed organizations usually rents the equipment in the organization's name.

We also clarified the pre-January 1, 2008, requirement regarding purchasing from "any person" by stating "other charitable or nonprofit organizations, licensees, or tribal governments in Washington state" to make the post-January 1, 2008 rule, consistent with other rules about who may rent equipment and from whom. It is a substantive change which reflects changes in regulation that have occurred since the pre-January 1, 2008 rule, was originally passed.

We also clarified the pre-January 1, 2008, prohibition against basing the rental or lease payment on bingo income or profit by adding to the post-January 1, 2008 rule, that the rental price must not be based on "gross receipts," either.

Post-January 1, 2008, WAC 230-10-030 Bingo card definitions. The pre-January 1, 2008, WAC 230-20-192 Standards for disposable bingo cards—Requirements and definitions, requirement originally addressed disposable bingo cards. However, the definitions apply to all bingo cards and so we broke it out into a rule by itself during the rule simplification process.

We also included some new subsections in this post-January 1, 2008 rule. In order to maintain consistency with other sections and chapters of the rules, we changed the definition about how cards should be numbered from "consecutively" to "sequentially." Sequentially is the more correct definition.

In this post-January 1, 2008 rule, we added the definition of "number" which includes numbers and symbols to eliminate the repetition of "number or symbol" throughout the rules.

Lastly, in subsection (4), we changed "the process of cutting and/or assembling master sheets" to "the process of cutting or assembling master sheets" to broaden the definition to include all phases of the collating process.

Post-January 1, 2008, WAC 230-10-040 Disposable bingo cards additional requirements. The pre-January 1, 2008, WAC 230-20-240 Bingo equipment to be used, requirement was originally included in a manufacturer and distributor rule and the rest of the pre-January 1, 2008 rule, concerning I.D. stamps will continue to be included in that chapter.

We also relocated the requirement of pre-January 1, 2008, WAC 230-20-192 Standards for disposable bingo cards—Requirements and definitions, that disposable bingo cards "have an identification and inspection stamp from us that we sold to the licensed manufacturer or to the operator and that was attached to the series by the licensed manufacturer, the operator, or us" from a manufacturer and distributor rule concerning identification and inspection stamps to the

bingo section. This change will allow organizations using disposable bingo cards to understand and comply with the requirements about I.D. stamps more readily.

The change also combines a requirement for bingo equipment with the disposable bingo card requirements and eliminates a redundancy of having the same requirement in two places within the rules.

Post-January 1, 2008, WAC 230-20-246 Manner of conducting bingo. We are suggesting removing these pre-January 1, 2008, WAC 230-20-246 Manner of conducting bingo, requirements because they are covered already in the chapter 9.46 RCW.

Post-January 1, 2008, WAC 230-10-075 Licensed gambling manager required. This post-January 1, 2008 rule, sets out the requirements and exceptions for gambling managers at bingo operations. This rule is about gambling managers being on site at bingo operations. However, lower volume organizations like those named in the exceptions are not required to have a bingo manager.

We believe that the exception for special property bingo was inadvertently left out of the pre-January 1, 2008, WAC 230-20-065 Licensed bingo manager required on premises, when it was written or missed when exceptions for lower volume charitable or nonprofit organizations were added to the rule.

Special property bingo is usually held by small charitable or nonprofit organizations and we issue a permit for them to move their bingo game twice a year to a different location (the "special property"). The change makes our handling of exceptions to record-keeping and management requirements for lower volume organizations consistent.

Post-January 1, 2008, WAC 230-10-080 Supervision required for bingo workers. This pre-January 1, 2008, WAC 230-20-070 Regulation of managers, operators, and other employees—Charitable or nonprofit organizations, sets out the requirements for supervision of bingo workers. In this change, we added chapter 9.46 RCW to the gambling rules which workers and supervisors are required to follow. This requirement has always been implied, but here we are making it explicit.

Post-January 1, 2008, WAC 230-10-175 Defining "electronic bingo card daubers." The pre-January 1, 2008, WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restrictions—Standards, offers an exception to the definition of electronic daubers which states that "player-owned devices, which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not 'electronic bingo card daubers' for purposes of this title." When the pre-January 1, 2008, WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restrictions—Standards, was first written, electronic bingo daubers were fairly new and we wished to leave the rule open to allow for innovations in the design and operation of the daubers.

We propose removing this exception from the post-January 1, 2008 rule, because there aren't any player-owned devices used now and we can't envision any player-owned devices that we would allow to be used in bingo games because of the dangers they might present to game integrity.

Should, in the future, a manufacturer or individual wish to introduce a new form of electronic dauber, they would have the ability to ask for a rule change to expand this definition.

Post-January 1, 2008, WAC 230-10-185 Electronic bingo card daubers restrictions. In the post-January 1, 2008 rule, we removed the portion of pre-January 1, 2008, WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restrictions—Standards, that states, "Electronic bingo card marking devices or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section" because it is covered in chapter 9.46 RCW prohibiting cheating.

This pre-January 1, 2008 rule, was originally a part of a larger rule concerning electronic bingo daubers. We divided that rule into several portions so that the individual restrictions were easier to locate.

Post-January 1, 2008, WAC 230-10-220 Player selection bingo game card requirements. The post-January 1, 2008 rule, combines two sections of two different rules—pre-January 1, 2008, WAC 230-20-106 Electronically generated bingo card method of receipting bingo income and 230-20-240 Bingo equipment to be used, concerning player selection bingo game cards and provides a single rule including all requirements for player selection bingo game cards.

We are suggesting a substantive change to the player selection bingo game card requirements. Player selection cards are No Carbon Required™ paper cards on which players may write their own choice of bingo numbers and, leaving the original card with the bingo operator for verification, play those numbers during the bingo game.

The pre-January 1, 2008 rule, used to state that player selection cards produced by unlicensed manufacturers had to have invoices which recorded the beginning number of the cards sold. We have added the requirement to the post-January 1, 2008 rule, that the invoice must also include the ending number of the cards sold. This change will allow for a clear audit trail should licensees or agents have to audit the player selection bingo game cards.

Post-January 1, 2008, WAC 230-10-240 Three number speed bingo authorized. In the post-January 1, 2008 rules, we are making a substantive change to the authorization of three number speed bingo. Three number speed bingo is a game where players are given a card with three numbers and they purchase three chips to play on that card. As numbers are called, players cover their matching numbers with chips. When someone bingos, the other players' chips that are not covering numbers on their cards are awarded to the winner as the prize.

The pre-January 1, 2008, WAC 230-20-249 Three number speed bingo—Operational procedures—Restrictions, states that three number speed bingo uses "special cards with less than twenty-five spaces" and in subsection (3) that it uses "cards that have three spaces imprinted with numbers that correspond to the numbers on the balls utilized for play." This leads to confusion about how many squares should be on the card.

In the post-January 1, 2008 rules, we *twice* define the number of spaces allowed on the bingo card as three. By changing the authorization rule, we are getting rid of a con-

tradition within the pre-January 1, 2008 rule, and choosing to give clearer directions regarding the number of spaces on three number speed bingo cards

Post-January 1, 2008, WAC 230-10-265 Banking services for three number speed bingo. We are suggesting a substantive change to the pre-January 1, 2008, WAC 230-20-249 Three number speed bingo—Operational procedures—Restrictions, regarding three number speed bingo. The rule requires that operators of three number speed bingo sell chips to anyone who asks for them. We have removed that requirement from the post-January 1, 2008 rule, because we feel that it contradicts the bingo operator's right to refuse service to anyone. We are, instead, emphasizing what we believe was the real intent of the rule: that the bingo operator redeem all chips sold for the same amount for which they sold the chips.

Post-January 1, 2008, WAC 230-10-275 Exceptions to other bingo rules for three number speed bingo. We are suggesting a substantive change to the pre-January 1, 2008, WAC 230-20-249 Three number speed bingo—Operational procedures—Restrictions, regarding three number speed bingo: The rule requires that operators have a "fully functional" audio system during three number speed bingo. We are changing the post-January 1, 2008 rule, to require that they actually use the audio system during three number speed bingo. We believe that the intent of the current rule was that operators use the audio system, so we are making that explicit.

Pre-January 1, 2008, WAC 230-20-247 Keno bingo—Definitions and requirements and 230-20-240 Bingo equipment to be used. Subsection (4)(a). Keno bingo is a special type of bingo game which was brought forward by petition for rule change in 1996. Though the game was authorized and requirements for operation added, no operator ever successfully operated keno bingo because it was too complicated and cumbersome to operate and maintain records for.

We removed the pre-January 1, 2008, requirements governing keno bingo because no operator has successfully operated keno bingo since the rules were put into place in 1996 and we know of no one who intends to operate keno bingo in future. Should the game be reformatted so that it is easier to operate and to maintain records for, we feel that a petitioner could come forward with a request to authorize keno bingo at that time.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 07-05-018 on February 12, 2007, and published March 7, 2007.

Changes Other than Editing from Proposed to Adopted Version: After chapter 230-10 WAC was filed, questions came up during discussion about two rules. These two rules (WAC 230-10-180 and 230-10-235) were pulled from this package due to substantive changes and will be refiled at a later date to allow further discussion.

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 94, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 94, 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 94, Amended 0, Repealed 0.

Date Adopted: April 24, 2007.

Susan Arland
Rules Coordinator

Chapter 230-10 WAC

BINGO RULES

BINGO DEFINITIONS AND EQUIPMENT REQUIREMENTS

NEW SECTION

WAC 230-10-001 Defining "licensees," "licensee," "organizations," "organization," "operators" and "operator." (1) In this section of the rules, "licensee" and "licensees" means those charitable or nonprofit organizations which we require to be licensed to conduct gambling activities.

(2) In this section of the rules, "organization" and "organizations" means:

(a) Licensees; and

(b) All bona fide charitable or nonprofit organizations conducting unlicensed gambling activities authorized by chapter 9.46 RCW.

(3) In this section of the rules, "operator" and "operators" mean licensees, organizations, and individuals.

NEW SECTION

WAC 230-10-005 Agricultural fair bingo game licensees must only allow a permittee to operate bingo under their license. An agricultural fair licensed for the operation of bingo must not allow any person to conduct bingo under the fair's license unless that person has applied for and received an agricultural fair bingo permit from us.

NEW SECTION

WAC 230-10-010 Defining "bingo game." "Bingo game" means a game using bingo cards where bingo balls are drawn to determine a winner. All bingo games must have a winner determined by the matching of numbers on a bingo card with numbers on the balls called by the operator.

NEW SECTION

WAC 230-10-015 Defining "bingo session." "Bingo session" means a continuous series of bingo games with no breaks except for short intermissions.

NEW SECTION

WAC 230-10-020 Defining "bingo occasion." "Bingo occasion" means a period of time beginning when the first number in the first bingo session is called and ending when the last winning number on the final winning bingo card of the last bingo session has been verified. This is also known as a "bingo day."

NEW SECTION

WAC 230-10-025 Defining "bingo equipment." (1) "Bingo equipment" means all equipment for use in bingo games for which consideration is charged to play and prizes are awarded to winners. Bingo equipment includes, at least:

(a) Bingo ball mixers that use air flow (blowers) or other mechanical means to mix balls and allow balls to be randomly drawn; and

(b) Electronic flashboards that interface with the mixing and selection devices; and

(c) Bingo cards; and

(d) Electronic bingo card daubers, including the software and equipment connected with them; and

(e) Any other device commonly used in the direct operation of the game.

(2) Bingo equipment does not mean general purpose equipment, such as:

(a) Tables, chairs, or card stands; or

(b) Audio or video equipment used only to communicate progress of the game to players; or

(c) Computer or cash register equipment used to record sales or store records; or

(d) General supplies, such as glue sticks, daubers, and other items for resale to players; or

(e) Bingo games manufactured and sold for recreational purposes.

NEW SECTION

WAC 230-10-030 Bingo card definitions. For purposes of this title:

(1) "Card" means a unique group and configuration of numbers printed on paper, cardboard, or other material used in bingo games. This is also called a "face."

(2) "Card number" means the number the manufacturer assigns to identify a single card or face. The "card number" is also called a "face" or "perm" number.

(3) "Number" means numeral or symbol printed on the card.

(4) "Collate" means the process of cutting or assembling master sheets or pre-cut sheets of cards from one or more sets of cards into packets or books for marketing purposes. "Collate" is also called "finish" or "finishing."

(5) "Collation" means a group of packets or books of cards assembled from more than one set of cards.

(6) "Cut" means the layout or orientation of cards or sheets of cards divided from a master sheet of cards. A "cut" may be either square, horizontal, or vertical.

(7) "Disposable bingo card" means a nonreusable paper bingo card manufactured by a licensed manufacturer.

(8) "Duplicate cards" means two or more cards that are imprinted with the same numbers.

(9) "On" means the number of cards imprinted on a sheet. (Example: "Three on.")

(10) "Pack" means a group of cards or sheets of cards collated into a book and each page or sheet is intended to play a separate bingo game, including "on-the-way" games, within a session. This is also called a "packet."

(11) "Product line" means a specific type of card identifiable by unique features or characteristics when compared to other types of cards the manufacturer markets. A "product line" includes all series and all cards within each series the manufacturer identifies.

(12) "Sequentially numbered" means a numbering system normally beginning with the number one, increased by one for each individual unit added to the group, and ending with a number identical to the total number of units assigned to that group.

(13) "Serial number" means a number the manufacturer assigns for identification and tracking purposes to a set of cards. The same number must not identify another set of cards from the same product line, color, border pattern, and series in less than 999,999 occurrences or twelve months, whichever occurs first. If the product line is used as a determining factor for assignment of a serial number, the difference between various product lines must be readily identifiable by observation.

(14) "Series" of cards means a specific group of cards that a manufacturer assigns sequential card numbers. The first and last card numbers in a series typically identify the group of cards. (Example: The "1 to 9000 series.")

(15) "Set" of cards means a specific group of cards from the same product line, which are the same color, border pattern, and imprinted with the same serial number. A "set" of cards may include more than one series of cards.

(16) "Sheet number" means the number the manufacturer assigns to identify an arrangement of more than one card that results from dividing master sheets of cards to help marketing.

(17) "Skip" means the standard spread or difference between card or sheet numbers at different page levels in packs or packets.

(18) "Subset" means a portion of a set of cards or collation of packets that a licensed distributor divides to help marketing.

(19) "Up" means the number of pages or sheets collated into each packet or book of cards. (Example: "Eight up.")

NEW SECTION

WAC 230-10-035 Bingo card requirements. Bingo cards must:

(1) Be preprinted cards manufactured by a licensed manufacturer or electronically generated cards produced by the operator using a printer interfaced with an electronic data base system; and

(2) Not have the same serial number, color/border pattern, and card number as any disposable bingo cards on the premises. This includes player selection, keno, and speed bingo cards; and

(3) Have twenty-five spaces imprinted with numbers one of which may be a free space, arranged in five even columns headed with the letters B, I, N, G, and O, unless they are player selection or speed bingo cards.

NEW SECTION

WAC 230-10-040 Disposable bingo cards—Additional requirements. (1) Disposable bingo cards must:

- (a) Meet all bingo card requirements; and
- (b) Be imprinted with a unique set and configuration of numbers on each card; and
- (c) Not duplicate cards within a specific product line; and
- (d) Include a control system in each set which:
 - (i) Identifies that specific set and each specific card within that set; and
 - (ii) Allows tracking of the transfer of cards from the point of manufacture to the operator; and
 - (iii) Facilitates sale by the operator to the player; and
- (e) Have an identification and inspection stamp from us sold to the licensed manufacturer or to the operator and attached to the series by the licensed manufacturer, the operator, or us.

(2) Bingo licensees using the combination receipting method may divide sets or collations of cards into no more than ten subgroups. Licensees must follow disposable bingo card inventory control requirements for each subgroup.

NEW SECTION

WAC 230-10-045 Disposable bingo card inventory control. Bingo licensees must control and account for all disposable bingo cards they purchase or otherwise obtain.

- (1) All licensees must keep:
 - (a) All purchase invoices, or photocopies of the invoices, for received disposable bingo cards on the bingo premises; and
 - (b) All manufacturer packing records as part of the inventory control record.
- (2) Class D and above licensees must prepare an inventory control record in the format we require immediately after purchase of disposable bingo cards or before the next bingo session. We may approve alternative formats, such as electronically generated forms, if the licensee requests it in writing.

NEW SECTION

WAC 230-10-050 Electronically generated bingo cards—Additional requirements. (1) "Electronically generated bingo cards" means bingo cards for which a licensed manufacturer has predetermined the numbers and the sequence of arrangement and stored them electronically for computer access. Electronically generated bingo cards must:

- (a) Meet the requirements for bingo cards; and
- (b) Be printed by the licensed bingo operator, during the bingo session on a printer interfaced with the computer; and
- (c) If printed before the time of sale, be sold sequentially at each individual sales point, beginning with the lowest card, sheet, or transaction number; and

(d) Have a master verification system that provides a facsimile of each card. The master verification system must display the exact numbers and the location or configuration of numbers on the card.

(2) The bingo licensee must keep cards or sheets of cards not issued sequentially during a session as a part of their daily bingo records.

NEW SECTION

WAC 230-10-055 Bingo cards required for Class F and above bingo games. Class F and above bingo licensees must use disposable bingo cards, electronically generated bingo cards, player selection bingo cards, or three number speed bingo cards.

NEW SECTION

WAC 230-10-060 Bingo ball requirements. Bingo balls must be:

- (1) A set of seventy-five balls bearing the numbers one through seventy-five and the letters B, I, N, G, or O, though the letters B, I, N, G, O need not appear if the operator is playing three number speed or hidden face bingo games; and
- (2) Available for inspection by the players before a bingo session begins to determine that all are present; and
- (3) The same weight as each of the other balls and free from any defects; and
- (4) Distinguishable from all other sets of balls in play.

NEW SECTION

WAC 230-10-065 Bingo ball mixer required for Class D and above bingo games. Class D and above bingo licensees must use a machine that mixes balls and selects balls using air flow (a blower). The blower must:

- (1) Allow players full view of the mixing action of the balls; and
- (2) Not allow changes to the random placement of the balls in the exit tube of the blower except when it is shut off.

NEW SECTION

WAC 230-10-070 Bingo flashboard requirements for Class D and above bingo games. (1) Class D and above bingo licensees must use flashboards to display numbers. The flashboards must be visible to all players and clearly indicate all numbers that have been called; and

(2) If a flashboard malfunctions, licensees must repair it before using it in any other bingo occasion.

OPERATING BINGO GAMES

NEW SECTION

WAC 230-10-075 Licensed bingo manager required. A licensed bingo manager must be on the premises and supervising bingo operation during all hours bingo games are conducted, except bingo games conducted:

- (1) Under RCW 9.46.0321; or
- (2) At a qualified agricultural fair; or

- (3) Under a Class A, B, or C bingo license; or
- (4) At a special bingo property we authorize.

NEW SECTION

WAC 230-10-080 Supervision required for bingo workers. Bingo licensees must closely supervise all persons involved in the conduct of gambling activities to ensure that they follow chapter 9.46 RCW and Title 230 WAC.

NEW SECTION

WAC 230-10-085 Members or employees only to work bingo. (1) Bingo licensees must not allow anyone except full and regular members or employees of the organization to take part in managing or operating bingo games.

(2) Licensees may allow:

(a) Persons other than the primary bingo manager to participate in bingo games for another bingo licensee. We do not consider a licensed assistant gambling manager to be a manager for this section; or

(b) Primary managers to manage or operate bingo for more than one Class A, B, or C licensee as long as the managers do not receive payment for services from more than one licensee; or

(c) A person to manage or take part in operating a shared bingo operation according to WAC 230-10-470.

(3) Qualified agricultural fairs licensed to operate bingo are not required to meet these management or operation restrictions.

NEW SECTION

WAC 230-10-090 Workers not playing in Class D and above bingo games. (1) Class D and above bingo licensees must not allow persons who participate in operating or managing their bingo games to play in any of their bingo games.

(2) Persons who work without compensation for Class D and above licensees may play bingo, but they must not play during bingo sessions they are operating or managing.

NEW SECTION

WAC 230-10-095 Compensation limits for bingo employees. (1) Bingo licensees must not compensate employees who manage, operate, or otherwise work at bingo games more than what is reasonable under the local prevailing wage scale or local salary scale for a similar position.

(2) Organizations operating unlicensed bingo games must not pay wages to anyone operating or managing bingo activities.

NEW SECTION

WAC 230-10-100 Hours for bingo games. (1) Bingo licensees must not allow the use of their premises for bingo games between the hours of 2:00 a.m. and 6:00 a.m. unless we approve different hours or they are operating at an authorized agricultural fair or under RCW 9.46.0321.

(2) Licensees may request, in writing, different hours of operation. Once the request is received, we will consult with the local law enforcement agency having jurisdiction over the licensee's business and with other state agencies involved in regulation of the business. We may allow licensees to adjust closing hours, but licensees must:

(a) Observe a four-hour period of closure at the end of each business day before beginning the next period of operation; and

(b) Comply with any other terms and conditions we require.

(3) We may deny the request for extended hours or revoke hours already approved if:

(a) Any local law enforcement agency or state agency objects in writing; or

(b) We determine that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section.

(4) The licensee must submit all objections to revocations of operating hours in writing.

(5) We allow the licensee an opportunity for a brief adjudicative proceeding (BAP) before denying or revoking the licensee's authorization for extended bingo hours. An administrative law judge hears the BAP, under the provisions of Title 230 WAC and chapter 34.05 RCW.

NEW SECTION

WAC 230-10-105 Posting bingo rules. (1) Bingo licensees must inform players by prominently posting:

(a) All costs to play; and

(b) All prizes available, including any extra cost or conditions of ownership related to prizes, the minimum amount of an individual prize, the prize pool, or the portion of a prize pool available for each bingo game before the players purchase a bingo card; and

(c) The licensee's cost or the retail value of all noncash prizes greater than five hundred dollars. If licensees use the retail value, they must explain that the amount is the "retail value" or "manufacturer's suggested retail price" (MSRP); and

(d) All rules concerning winning the prizes (the house rules). If a bingo is determined to be valid, the licensee must pay a prize which is equal to the prize posted for that game. If the bingo is valid, we will resolve disputes in favor of the player; and

(e) Any unforeseen event that might change the cost to play or prizes available; and

(f) If duplicate cards are in play.

(2) Licensees must inform players in broadcast or published advertisements or other distributed printed information if there are any possible events which might change game schedules, prizes awarded, or cost to play. Advertised bingo prizes and game formats may be changed in case of inclement weather, natural disaster, or other unforeseen emergencies if the licensee informs players before they purchase cards.

(3) If players may still participate in the game after the winner of any one of the prizes offered has been determined, licensees must remove the prize won from any display and list of prizes posted on the premises. During a bingo session,

licensees may use the public address system and prominent display of the game name or number to inform players of prizes already won.

NEW SECTION

WAC 230-10-110 Changing prize amounts in bingo games. (1) The bingo manager may increase the minimum prize before the start of a game.

(2) During the game, the bingo manager may increase the minimum prize through one or more of the following plans:

(a) Games using standard bingo equipment and cards, but determining a winner by:

(i) The number of numbers called; or

(ii) The specific number called; or

(iii) The specific letter called; or

(iv) The specific position of winning combinations on the card; or

(v) The specific position of the card on the sheet of cards; or

(vi) Odd or even numbers; or

(vii) The number of numbers matched within a specific number of calls; or

(b) Preprinted games on disposable cards that determine a win by calling a specific number during a game; or

(c) Second element of chance games explained in WAC 230-10-280.

NEW SECTION

WAC 230-10-115 Selling bingo cards. (1) Operators must sell bingo cards before they select the first number for a specific game:

(a) If operators sell cards after the start of the game, they must ensure that the late sale does not allow any player an advantage over another player; and

(b) Bingo hard cards purchased or exchanged after the first number is selected for a specific game may only be used during later games; and

(c) Operators must not allow players to select specific bingo cards after the first number is selected for a specific game.

(2) Operators must sell all cards for a specific prize for the same price. The cards sold for a specific prize must be distinctive and easy to tell apart from all other bingo cards in play.

(3) Operators may sell similar cards used to participate for the same prize at a volume discount if they record each separate discount price with an identification code or cash register key that provides for an audit trail.

NEW SECTION

WAC 230-10-120 Duplicate bingo cards not sold for Class D or above bingo games. (1) Class D or above bingo licensees must not sell duplicate cards in bingo games. Licensees using cards from multiple manufacturers may result in duplicate cards because the majority of cards in the "1 to 9000 series" are duplicate, regardless of the manufacturer.

(2) Licensees must:

(a) Inform players of limits on prizes if duplicate cards win because Braille cards are in play; and

(b) Not be held responsible for duplicate cards caused by Braille cards in play.

NEW SECTION

WAC 230-10-125 Duplicate bingo cards pay out and documentation for Class D or above bingo games. (1) If Class D or above bingo licensees inadvertently sell duplicate bingo cards, they must:

(a) Pay all winners with duplicate cards the entire prize amount that would be due if there were no duplicate cards; or

(b) Compute and pay all winners with duplicate cards using the following guidelines:

(i) **If the game provides a bonus for a single winner and all winners have duplicate cards**, then the licensee must pay all winners the bonus; or

(ii) **If the game results in multiple winners and some of the players have duplicate cards**, then the licensee must calculate the split of the prize pool by counting all duplicate card winners as one. All winners will be paid according to the calculated prize split; or

(iii) **If the prize pool contains noncash or merchandise prizes**, then the licensee may use the cost or retail value of the merchandise, whichever is posted in the game schedule, to calculate the amount added to the prize pool to make the split. Manufacturers are not responsible for reimbursement to this noncash or merchandise prize pool; or

(iv) **If the prize is more than one thousand dollars**, then the licensee must increase the total prize pool by no more than fifty percent or five thousand dollars, whichever is less. We authorize this limitation only once within a twelve-month period; and

(2) Licensees may deduct increases to prize pools caused by card manufacturers from prize pay outs when calculating cash flow.

(3) Licensees must document details of circumstances that resulted in duplicate cards being sold and maintain that documentation as a part of the daily bingo record for the session.

(4) Licensees must notify us within forty-eight hours after discovery of a duplicate card sale if:

(a) Manufacturer printing, packaging, or collation errors caused the duplication. Licensees must request reimbursement from the manufacturer responsible for duplicate card errors; or

(b) The licensee did not pay any winning player with a duplicate card the entire prize amount.

NEW SECTION

WAC 230-10-130 Reserve only Braille bingo cards.

(1) Operators must not reserve any bingo cards, except Braille cards or other cards used by people with visual impairments.

(2) Operators may inspect, and reject, any personal Braille cards.

NEW SECTION**WAC 230-10-135 Bingo cards sold on premises only.**

All sales of bingo cards must take place on the premises during or immediately before the bingo session for which the player is buying the card.

NEW SECTION

WAC 230-10-140 Drawing, calling, and posting bingo numbers. (1) Except for linked bingo prize games, operators must draw bingo balls on the premises and in the presence of players.

(2) After drawing a ball, the caller must immediately display the number of the ball to players.

(3) Operators must call the number before another ball is drawn. After it is called, the operator must light the number on the flashboard(s), if they have one.

(4) If the number on the ball is not applicable to the game being played, operators may choose not to call the number.

NEW SECTION

WAC 230-10-145 Determining bingo winners. (1) A bingo game ends when a player achieves a specific pattern on a bingo card or when the bingo operator has called a specific number of bingo balls.

(2) Operators must use a separate drawing process for each game, except for:

(a) Interim or "on-the-way" games, including "instant winner" games in which players win by matching a predetermined number, the number of balls called, or a predetermined pattern within an established number of calls; or

(b) Games in which cards are sold for different prices and players win a different prize depending on the price they paid to play; or

(c) Bonus games played at the same time as other bingo games where the player wins by calling a valid bingo that includes a predetermined number.

NEW SECTION

WAC 230-10-150 Multiple bingo winners. If more than one player wins a designated prize pool at the same time, the operator must divide the prize pool equally among the multiple winners.

NEW SECTION

WAC 230-10-155 Verifying bingo winners. When a player declares a winning bingo, the operator must:

(1) Have a bingo worker and at least one neutral player inspect the card or electronic dauber; or

(2) Have a bingo worker verify the card or electronic dauber by entering the bingo card number into an electronic verifier which will broadcast the winning card onto video screens for all players to view. Any player may request to see the actual winning card and the operator must allow the player to do so; or

(3) If the game is an "instant winner" and pays a prize of no more than fifty dollars, no neutral player needs to verify

the card if the operator keeps an audit trail which identifies the winning combination called.

NEW SECTION**WAC 230-10-160 Shutting off the bingo ball blower.**

When a player declares a winning bingo, operators must draw the next ball out of the blower before shutting the blower off. If the bingo is not valid, the operator must call the next ball.

NEW SECTION

WAC 230-10-165 Awarding bingo prizes. After licensees validate a winning bingo, they must:

(1) Require the prize winner to provide proof that they have purchased the winning bingo card. The licensee must review the winner's bingo card purchase receipt and determine that the player properly purchased all cards played, including the winning card; and

(2) Require proof of identification necessary to establish the prize winner's identity before paying any prize. The winner must provide proof to the licensee that all information this rule requires is true and accurate. Licensees may withhold prizes until the winner provides adequate identification; and

(3) Award the prize and record it on a prize receipt. Licensees must record the complete address and tax payer identification number of each winner for prizes valued at \$1,200 or more.

NEW SECTION

WAC 230-10-170 Prizes paid for and available before bingo game starts. (1) Bingo operators must:

(a) Have paid for all merchandise prizes in full before offering the prizes in a bingo game; and

(b) Have the prizes available before starting the game; and

(c) Award the prizes before the end of the related bingo session, except for the main linked bingo prize and linked bonus prizes, which must be paid within forty-eight hours.

(2) Operators may enter into contracts to purchase merchandise immediately if it is awarded as a prize. The contract may be revocable if:

(a) Winners have an option to receive a cash prize; or

(b) The prize is no longer being offered.

RULES FOR ELECTRONIC BINGO CARD DAUBERSNEW SECTION

WAC 230-10-175 Defining "electronic bingo card daubers." "Electronic bingo card daubers" means electronic equipment players use to identify bingo cards that contain numbers that a player inputs.

NEW SECTION

WAC 230-10-185 Electronic bingo card daubers restrictions. (1) Electronic bingo card daubers must not allow a player to play more than sixty-six cards on the dauber at one time; and

(2) Players must:

(a) Input each number the operator calls into the memory of the dauber separately. Automatic or global marking of numbers is prohibited; and

(b) Call the bingo without using the dauber or the associated system; and

(c) Identify the winning card and display the card to the operator; and

(d) Not play more than one dauber at any point in time. However, a player may play one dauber and an unlimited number of bingo cards at the same time.

NEW SECTION

WAC 230-10-190 Discount marketing for electronic bingo card daubers. (1) Bingo licensees may use a single discount level for each type of card sold on electronic bingo card daubers, if they:

(a) Have a minimum purchase requirement; and

(b) Apply the discount to all additional cards bought; and

(c) Do not use an "All you can play" discount.

(2) If a licensee offers volume discount marketing for bingo cards, players must not use electronic bingo daubers.

NEW SECTION

WAC 230-10-195 Leasing electronic bingo card daubers. If a bingo licensee leases electronic bingo daubers from a manufacturer, the lease must not be based on, in whole or in part, the bingo card sales or the rental income from the daubers. However, manufacturers may base fees on the number of cards placed on a dauber for player selection games.

NEW SECTION

WAC 230-10-200 Reserving and assigning electronic bingo card daubers. (1) Bingo operators using electronic bingo card daubers must reserve at least one dauber for players with disabilities that restrict their ability to mark cards. The disabilities must be consistent with definitions in the Americans with Disabilities Act (ADA). If there are no requests for use of this dauber fifteen minutes before the scheduled start of the session, operators may allow any player to use the dauber.

(2) If operators use a drawing to assign daubers to players, they must ensure that the players know the method of drawing and have an equal chance to win.

NEW SECTION

WAC 230-10-205 Electronic bingo card dauber fees. (1) Bingo operators may charge either no fee or a flat fee for players to use electronic bingo card daubers.

(2) Operators must not:

(a) Charge a rental fee to players with disabilities that restrict their ability to mark cards if the disabilities are consistent with the ADA; or

(b) Make players with disabilities comply with minimum purchase requirements for daubers. However, players with disabilities must comply with any minimum purchase required of all other players.

(3) Operators must report rental fees for daubers as bingo receipts.

PLAYER SELECTION BINGO GAMES

NEW SECTION

WAC 230-10-210 Player selection bingo games authorized. Bingo licensees may offer player selection bingo games. "Player selection bingo game" means a bingo game where players select their own numbers. Licensees must use bingo cards with controls that provide an audit trail adequate to determine all winning combinations are valid.

NEW SECTION

WAC 230-10-215 Player selection bingo game requirements. If bingo licensees offer player selection games, they must use:

(1) Two-part disposable cards and then they must:

(a) Use the disposable card method of receipting for income; and

(b) Establish and prominently post house rules setting out conditions for adding to, deleting from, or changing a card before it is separated from the copy. A worker authorized by the bingo manager must verify all changes to the card; and

(c) Ensure that players mark their numbers on each card in a distinct, clear, and legible manner before separating the duplicate and the original. Licensees must not allow anyone to alter the copies after the duplicate and original cards are separated; and

(d) Place all original cards in lockboxes to ensure no one places cards in the lockbox after the first bingo ball is called; and

(e) Ensure the player retains and plays the duplicate copy; or

(2) Electronically generated cards and then they must:

(a) Use the electronically generated bingo card method of receipting for income; and

(b) Ensure that players do not mark or deface the card in any manner that prevents reading of the bingo numbers or any of the data imprinted on the card; and

(3) Keep all winning cards and any duplicate copies as part of the daily bingo records.

NEW SECTION

WAC 230-10-220 Player selection bingo game card requirements. Bingo cards used in player selection bingo games:

(1) Must be printed on two-part, self-duplicating paper to include an original and a duplicate copy. The duplicate copy must be given to the player and the operator retains the original as a part of the daily bingo records; and

(2) Must include a control system in each set which:

(a) Identifies that specific set; and

(b) Numbers each sheet of cards within a set sequentially; and

(c) Allows tracking of the transfer of cards from the point of manufacture to the operator and from the operator to the player; and

(3) May be produced by unlicensed manufacturers if:

(a) The primary activity of the manufacturer is producing nongambling products; and

(b) The cards meet the general bingo cards requirements; and

(c) The licensee assumes responsibility for complying with all requirements for player selection cards; and

(d) The invoice transferring these cards includes the beginning and ending card number in addition to meeting all other sales invoice requirements; and

(4) If electronically generated cards, may be single copy cards if all information from the cards is either printed on a continuous transaction journal retained in the card generating device or stored on the computer hard drive in a data base and printed out at the end of each session.

NEW SECTION

WAC 230-10-225 Player selection bingo game restrictions. (1) Bingo licensees offering player selection bingo games must not pay as winners incomplete cards, altered cards that were not verified per WAC 230-10-155, or cards where all required information is not displayed and legible. Incomplete, incorrect, altered, and unreadable cards are the players' responsibility and operators must not allow refunds.

(2) Bingo managers may make a one-for-one exchange when errors are discovered before the start of the game or before the player selection card is separated. In this case, the operator must mark "VOID" on the original card, initial next to the player's initials, and keep the voided card as part of the daily bingo records.

HIDDEN FACE BINGO GAMES

NEW SECTION

WAC 230-10-230 Hidden face bingo games authorized. Bingo licensees may offer hidden face bingo games. "Hidden face bingo game" means a bingo game that uses cards that prevent the numbers printed on the card from being viewed or known before the player opens the card.

THREE NUMBER SPEED BINGO GAMES

NEW SECTION

WAC 230-10-240 Three number speed bingo authorized. Bingo licensees may offer three number speed bingo games. "Three number speed bingo" means a bingo game where:

(1) Operators use a reduced number of balls and special bingo cards with three spaces; and

(2) Bingo numbers are called rapidly; and

(3) The price to play includes an ante, retained by the operator, and a wager that begins at three units and decreases by one for each number covered on a player's card; and

(4) An "ante" is the fee retained by the licensee which allows a patron to play three number speed bingo; and

(5) A "wager" is the total dollar value of chips used to cover the numbers on a player's card; and

(6) Players compete against all other players for a pool of prizes that varies according to the numbers covered by other players during the game.

NEW SECTION

WAC 230-10-245 Three number speed bingo restrictions. (1) Bingo licensees offering three number speed bingo must:

(a) Make the price to play no more than seven dollars per card, per game, including the ante and wagers; and

(b) Collect the same price to play for each card; and

(c) Licensees who charge a flat fee per session must determine the per game fee by dividing the fee per session by the minimum number of games to be played; and

(d) Not retain any part of players' wagers; and

(e) Pay to the winner(s) all wagers not covering a called number on a player's card. If there is more than one winner, licensees must equally split wagers among all winners. Licensees may develop a formula for splitting odd numbers of chips between winners; and

(f) Count only the ante as gross gambling receipts; and

(2) Licensees may contribute to accrued prize funds or progressive jackpots on three number speed bingo games, if they:

(a) Meet all requirements for accrued prize fund games as explained in the bingo records packet; and

(b) Fund the prize fund or jackpot solely from the ante.

NEW SECTION

WAC 230-10-250 Operating three number speed bingo. To play three number speed bingo:

(1) Bingo licensees must use:

(a) Special bingo cards that have three spaces imprinted with numbers that correspond to the numbers on the balls; and

(b) Thirty numbered balls, with numbers one through seventy-five available for use; and

(2) Licensees may charge a set amount for each card for the entire session or an amount per card for each game; and

(3) Each player pays the bingo licensee one ticket for each speed bingo card played for each game; and

(4) When the licensee charges a per session fee, the player's ticket and cash register receipt must remain visible and on the table at all times during the game; and

(5) Each player's beginning wager is three chips for each card played during any single game. A player must have three chips for each card being played before beginning the game; and

(6) During the game, players place a wagering chip on each number on their cards that matches a called number. Once a wagering chip covers a valid number, the player keeps it and the game winner(s) may no longer win it. Players must leave all chips on the number on the card until the licensee collects all losing wagers. The bingo worker collecting wagers must verify that covered numbers are valid; and

(7) The first player to cover all three numbers on any card is the winner; and

(8) After the winning card is verified, bingo workers collect all unprotected chips from all players and pay them to the winner.

NEW SECTION

WAC 230-10-255 Wagers and prizes required in chips for three number speed bingo. In three number speed bingo, wagers must be made and prizes paid in chips only.

NEW SECTION

WAC 230-10-260 Chip standards for three number speed bingo. (1) Bingo licensees must supply all chips used in three number speed bingo games. All chips must be conventional size and design, and include safeguards that maximize the integrity of the bingo games.

(2) The licensee must supply chips that:

- (a) A licensed manufacturer produced; and
- (b) A licensed manufacturer or distributor sold to the licensee; and
- (c) Display the licensee's name or logo; and
- (d) Clearly indicate the value of the chip.

NEW SECTION

WAC 230-10-265 Banking services for three number speed bingo. (1) Bingo licensees must redeem all chips for the amount for which they were sold.

(2) Licensees must collect the money taken in on chips sold and antes collected and keep these funds separate from all other money they receive.

NEW SECTION

WAC 230-10-270 Ticket sales and receipting for three number speed bingo income. (1) Bingo licensees must:

- (a) Use the ticket method of receipting for bingo income; and
- (b) Account for all tickets sold for per session fees using the combination receipting method; and
- (2) All tickets sold and collected must be canceled by stamping the calendar date on the ticket at the time of sale or permanently defacing the tickets when collected; and
- (3) Licensees must reconcile tickets sold and collected from players to cash for each session.

NEW SECTION

WAC 230-10-275 Exceptions to other bingo rules for three number speed bingo. The following rules do not apply to three number speed bingo:

- (1) Prize disclosure before players pay to play. Licensees must still disclose the per card cost to play and the amount required to wager on a single card; and
- (2) Number of balls used to conduct the game; and
- (3) Number of spaces required on each bingo card; and

(4) Requirements that Class F and above licensees use disposable bingo cards; and

(5) Requirements to account for all income at the time it is received; and

(6) Requirements of WAC 230-10-145 about drawing and physically displaying bingo numbers. However, licensees offering three number speed bingo must display the number on a flashboard and use the audio system to announce the number; and

(7) Recordkeeping for prizes awarded.

OTHER GAMES AUTHORIZED AT BINGO GAMES

NEW SECTION

WAC 230-10-280 Drawings for prizes, good neighbor prizes, and second element of chance prizes as part of bingo games. Bingo licensees may award prizes to winners of other activities authorized by this section when they conduct these activities as part of a bingo session. All players paying to play must compete equally and licensees must treat all prizes awarded as bingo game prizes for minimum cash flow reporting requirements.

Drawings

(1) Licensees may award prizes by:

- (a) Drawing tickets randomly; or
- (b) Using other random selection methods involving the ticket numbering system, if they are using the ticketing method of receipting for bingo income; or
- (c) Using bingo cards in place of the tickets, if they are using the disposable bingo card method of receipting.

(2) Licensees must prominently post for players all rules regarding drawings, including, at least:

- (a) Requirements to qualify for the drawing; and
- (b) Time and date of the drawing; and
- (c) Whether a player must be present to win.

(3) Licensees must:

(a) Award tickets for drawings only to players who bought cards to play bingo and:

(i) Pay an amount not more than one dollar per ticket. If a licensee elects to charge for entry in drawings, the licensee must not combine the drawing with other means of entry; or

(ii) Are winners of a bingo game during the bingo occasion; or

(iii) Are "good neighbor" winners; or

(iv) Meet other criteria we approve; and

(b) Not collect tickets for drawings for longer than thirty days.

(4) Licensees must record the gross gambling receipts, prizes, and expenses and report these totals as bingo activities.

(5) Licensees must not require the player to be present to win at a drawing held at a different session for which the tickets were purchased.

"Good neighbor" prizes

(6) Licensees may award prizes based on the seating location of a player or players with regards to a bingo winner. Before awarding "good neighbor" prizes, licensees must:

(a) Prominently post all rules regarding drawings, including, at least:

- (i) The amount each "good neighbor" or group of "good neighbors" wins; and
 - (ii) All requirements to qualify for a prize.
- (b) Licensees must complete a record setting out:
- (i) The criteria for awarding "good neighbor" prizes; and
 - (ii) The number of prizes awarded during each bingo session; and
 - (iii) All details required as part of the daily bingo records.

Second element of chance prizes

(7) Licensees may award prizes using a second element of chance game if:

(a) Licensees prominently post and clearly explain to the players before they purchase a card to play all rules about play of the game. Licensees must disclose at least:

- (i) The minimum odds of winning the highest prize; and
 - (ii) How they determine a winner; and
 - (iii) Any possibility or special requirement that might affect the outcome; and
 - (iv) The cash value of the highest prize available; and
 - (v) Any financial burden that the winner must bear, such as taxes or registration fees; and
- (b) The second element of chance game does not involve the use of gambling devices; and
- (c) The second element of chance game does not require the player to risk any portion of a prize already won; and
- (d) Every possible outcome of the second element of chance game provides the player with an additional prize; and

(e) The player's minimum odds of winning the highest prize is equal to or greater than one winner out of one hundred twenty-five chances or the probability of winning the highest prize is .008 or greater; and

(f) Licensees maintain supporting records about the second element of chance game that provides for an audit trail.

(8) Licensees must:

- (a) Keep an inventory record in the format we require for all tickets on the premises for conducting drawings, "good neighbor," and second element of chance games; and
- (b) Record the criteria for granting tickets, and the number of tickets awarded during each session in the daily bingo record for each session; and
- (c) Maintain all winning tickets and other records as part of the daily bingo records.

RULES FOR ENTRY GUARANTEE TICKETS TO SPECIAL EVENT BINGO

NEW SECTION

WAC 230-10-285 Selling entry guarantee tickets for special event bingo. Bingo licensees may sell entry guarantee tickets to players to reserve the right to play in special event bingo games if licensees:

- (1) Use entry guarantee tickets to document the sale. Entry guarantee tickets must be preprinted with, at least:
 - (a) The name of the sponsoring organization; and

- (b) The time, date, and location of the event; and
- (c) The specific entry guarantee ticket number; and
- (d) The total number of entries available for the event; and

- (e) The cost of the entry; and
- (f) Any conditions or events that might prevent the buyer from redeeming the entry ticket, affect the refund, or cancel the event; and

(2) Sell the tickets sequentially beginning with the lowest numbered ticket; and

(3) Use the ticket receipting method to record all income from these entry guarantee tickets; and

(4) Sell the entry guarantee tickets no more than sixty days before the event; and

(5) Record the name, mailing address, and phone number of each person buying an entry guarantee ticket; and

(6) Limit the sales of entry tickets to the seating capacity of the licensed premises; and

(7) Limit the cost of the entry guarantee ticket to no more than fifty percent of the minimum buy-in for the event.

NEW SECTION

WAC 230-10-290 Controlling entry guarantee tickets. Bingo licensees must:

(1) Treat all unaccounted-for entry guarantee tickets as cash shortages in the amount of the redemption value; and

(2) Maintain a record of all entry guarantee tickets sold; and

(3) Redeem entry guarantee tickets on the licensed premises and only for bingo cards during the bingo session for which the player bought the entry guarantee ticket; and

(4) Immediately cancel entry guarantee tickets redeemed for bingo cards using a hand stamp that prints "REDEEMED" on each ticket; and

(5) Treat entry guarantee tickets redeemed as gross gambling receipts for bingo at the session where they are redeemed; and

(6) Modify the cash reconciliation section of the daily bingo records to document the number and dollar value of entry guarantee tickets redeemed; and

(7) Deposit gross receipts from the sale of entry guarantee tickets separately into the gambling account no later than two banking days after they are received; and

(8) Keep the entry guarantee ticket numbers relating to the funds deposited as a part of the deposit record; and

(9) After thirty days, consider all unredeemed entry guarantee tickets void and record them as contributions to the organization.

NEW SECTION

WAC 230-10-295 Canceling bingo special events with entry guarantee tickets. Bingo licensees may cancel the special event before the start of the scheduled bingo session. When an event is canceled, licensees must:

(1) Refund the entire purchase price of the entry guarantee ticket(s) to the ticket buyer; and

(2) Make all refunds by check payable to the buyer; and

(3) Record the entry guarantee ticket number on the check; and

(4) Mail the check to the customer no later than three days following cancellation of the special event.

NEW SECTION

WAC 230-10-300 Refunding entry guarantee tickets.

A customer may request a refund before the start of the special event bingo session. Bingo licensees must:

- (1) Require the person requesting the refund to sign the back of the ticket; and
- (2) Refund the entire purchase price of the ticket to the customer; and
- (3) Make all refunds by check payable to the customer; and
- (4) Record the entry guarantee ticket number on the check; and
- (5) Mail the check to the customer no later than thirty days following the event; and
- (6) Retain all refunded tickets as a part of the records for the event.

GIFT CERTIFICATES

NEW SECTION

WAC 230-10-305 Gift certificates as bingo prizes.

When issuing gift certificates as bingo prizes, bingo operators must:

- (1) Issue the gift certificates sequentially; and
- (2) Not exceed fifty dollars per bingo prize in value; and
- (3) Not issue gift certificates exclusively for punch boards or pull-tabs; and
- (4) Record the value of each gift certificate as a bingo prize in the daily bingo records under the session awarded; and
- (5) Keep the bingo prize receipt for the gift certificates as a part of the daily bingo records.

NEW SECTION

WAC 230-10-310 Selling gift certificates. When selling gift certificates, bingo operators must:

- (1) Issue the gift certificates sequentially; and
- (2) Ensure that the gift certificates are paid for in full at the time of purchase; and
- (3) Deposit all funds collected separately into the gambling account within five banking days; and
- (4) Include each gift certificate number with the deposit record.

NEW SECTION

WAC 230-10-315 Gift certificates requirements.

Bingo operator must purchase gift certificates from a commercial printer or licensed distributor.

- (1) The gift certificates must have at least the following information printed on them:
 - (a) A predetermined gift certificate number; and
 - (b) A predetermined dollar value; and
 - (c) The name of the organization issuing the gift certificate; and

(d) Any conditions for the redemption of the gift certificate.

(2) Purchase invoices for the gift certificates, which must include, at least:

- (a) Name of the organization; and
- (b) Date the gift certificates were purchased; and
- (c) Beginning and ending numbers on the gift certificates.

NEW SECTION

WAC 230-10-320 Redeeming gift certificates. When redeeming gift certificates, bingo operators must:

- (1) Record the dollar value and total number of gift certificates redeemed in the cash reconciliation section of the daily bingo records; and
- (2) Keep redeemed gift certificates as part of that day's daily bingo records.

NEW SECTION

WAC 230-10-325 Reconcile gift certificates monthly.

Bingo operators must reconcile gift certificates monthly. Operators must have a gift certificate inventory log, which includes, at least:

- (1) Each gift certificate number; and
- (2) Dollar value of each gift certificate; and
- (3) Date the gift certificate was sold or awarded as a bingo prize; and
- (4) Date the gift certificate was redeemed.

RECORDKEEPING FOR BINGO GAMES

NEW SECTION

WAC 230-10-330 Recordkeeping required for agricultural fairs, Class A, B, and C, and other organizations.

Licensees must immediately account for all income from bingo games. Class A, B, and C bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair must follow the recordkeeping requirements in WAC 230-07-125 or any of the receipting methods for bingo income required for Class D or above licensees.

NEW SECTION

WAC 230-10-335 Bingo daily records. Bingo licensees must prepare detailed records for each bingo session during that session in the format we require. Daily records must include, at least:

- (1) A copy of the schedule of games and prizes available for the session. Licensees must note any changes to the advertised and printed game and prize schedule that occur during a session and the bingo manager assigned primary responsibility for supervising the session and another bingo worker on duty during the session must verify and sign the change. If licensees note the effective dates of each game schedule, they may maintain it separately and update it only when a change occurs; and

(2) An attendance record indicating the number of people participating; and

(3) All bingo numbers selected and called during any game that offers a prize greater than two hundred dollars. Licensees must record the numbers in the sequence selected. They may use a computer generated "call sheet" instead of a manual record if a printout of results is made; and

(4) The winning card number(s) for each individual prize awarded greater than two hundred dollars. If the game is played using disposable bingo cards, the winning card may be retained instead of the card numbers; and

(5) The gross gambling receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. Licensees using the combination receipting method for bingo income must reconcile the extended value of all disposable cards, packets of cards, and electronically generated cards sold to the amount of sales recorded per the cash register; and

(6) The amount paid out or accrued for prizes awarded for each bingo game. Each session record must contain at least the following regarding prizes awarded:

(a) The game number; and

(b) The dollar amount or the actual cost of each prize; and

(c) A complete description of all noncash prizes; and

(d) The consecutive number of the prize receipt issued for each prize; and

(e) The duplicate copy of the prize receipt issued for all prizes awarded during the session or the merchandise prize receipt log; and

(f) The check number of all checks used to pay winners of bingo games. If the payment must be made by check, licensees must maintain the duplicate copy as a part of the session records; and

(g) Full details of prizes accrued; and

(7) The net gambling receipts from each bingo session; and

(8) The cash on hand at the beginning and the end of each session; and

(9) A reconciliation of cash on hand, net gambling receipts, and the bank deposit of net revenue for each session. Licensees must include a validated copy of the bank deposit receipt. Licensees must document all steps taken to reconcile overages or shortages of more than twenty dollars for any session.

NEW SECTION

WAC 230-10-340 Daily records review by gambling manager. The gambling manager assigned primary responsibility for supervising the bingo session(s) must review all session records for accuracy, determine that required information is provided, and confirm the required deposit amount(s). After this review, that gambling manager must sign the record before leaving the premises on the day of the session.

NEW SECTION

WAC 230-10-345 Retaining daily records. Bingo licensees must keep daily records for two years. Licensees must keep the session summary for three years.

NEW SECTION

WAC 230-10-350 Recording bingo winners. Organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair, and Class A and B bingo licensees do not have to follow this rule if they meet the requirements for lower volume charitable or nonprofit organizations in WAC 230-07-125. All other bingo licensees must report all prize payments for bingo games and drawings for prizes, good neighbor prizes, and second element of chance prizes at bingo games and record payment on a prize receipt.

(1) Licensees must use prize receipts printed by a commercial printer. The receipts must:

(a) Be two-part, self-duplicating paper that provides for an original and a duplicate copy; and

(b) If the licensee is Class F or above, be imprinted with the name of the licensee and a consecutive ascending number that does not repeat in at least 100,000 occurrences; and

(c) If the licensee is Class E or below, the receipt is not required to be imprinted with the licensee's name and the consecutive ascending number may repeat in 1,000 occurrences; and

(d) Provide space for the licensee to record the information we require.

(2) Licensees may receipt merchandise prizes with a cost or fair market value of fifteen dollars or less on a single merchandise prize receipt log sheet. Licensees must:

(a) Maintain a separate merchandise prize receipt log for each session; and

(b) Retain the receipt log as a part of the bingo daily records.

(3) Operators must complete the prize receipt including, at least:

(a) Date; and

(b) Game number; and

(c) Complete name and address of the winner; and

(d) Dollar amount of the prize or the operator's cost, if noncash prize; and

(e) Full description of all noncash prizes; and

(f) Check number, if any portion of the prize is paid by check; and

(g) Initials of the bingo worker making the payout; and

(h) Initials of the cashier making the payment.

(4) Except for linked bingo prizes, licensees may omit an address for the winner if:

(a) The prize is greater than \$300; and

(b) The licensee pays by check or a combination of cash and check; and

(c) Checks are drawn on the licensee's gambling bank account; and

(d) Checks used are of a type that provides a duplicate copy. The copies must be kept as a part of the daily bingo records; and

(e) Checks are made payable only to the winner. Licensees may make checks for prizes won by players under age eighteen payable to the guardian or immediate family member accompanying the player; and

(f) Licensees note the game number and prize receipt number on the check; and

(g) The bank returns all original checks to the licensee. Licensees must have the original checks available for our inspection on demand; and

(h) The licensee does not cash or otherwise redeem prize checks.

(5) Licensees must record the complete name and address of the winner of linked bingo prizes.

(6) Licensees must:

(a) Issue prize receipts sequentially in an ascending order; and

(b) Void and retain with the daily records any prize receipts bearing a lower number than the highest number issued during a session; and

(c) Give the original of each prize receipt to the winner; and

(d) Keep a duplicate copy as a part of their records for not less than three years; and

(e) Account for and document all prize receipts purchased or otherwise obtained on a vendor's invoice; and

(f) Keep the vendor's invoice, or a photocopy of it, on the premises and have it available for our inspection. The purchase invoice must document, at least:

- (i) Name of the vendor;
- (ii) Name of the purchasing organization;
- (iii) Date of purchase;
- (iv) Number of receipts purchased; and
- (v) The beginning and ending receipt number.

CASH FLOW REQUIREMENTS

NEW SECTION

WAC 230-10-355 Charitable or nonprofit organizations purpose and spending limits for bingo operations. To ensure that bingo licensees meet the intent of RCW 9.46.010 and provide adequate funds to promote charitable and nonprofit programs, bingo licensees must not allow their bingo operation to award excessive prizes or pay excessive expenses. The governing board of the organization must specifically approve all capital expenditures for the bingo operation that exceed six thousand dollars.

NEW SECTION

WAC 230-10-360 Defining "bingo operation." "Bingo operation" means bingo games and all associated activities conducted with bingo games at the premises, including punch boards, pull-tabs, other authorized drawings, snack bar, retail sales activities, and rental of the bingo premises.

NEW SECTION

WAC 230-10-365 Defining "adjusted cash flow from the bingo operations." "Adjusted cash flow from the bingo

operation" means the combined gross income of the bingo operation minus all prizes and expenses, whether paid or accrued. Operators must not consider depreciation or amortization an expense of the bingo operation for the purposes of computing expenses.

NEW SECTION

WAC 230-10-370 Adjusted cash flow limits for bingo. For the purpose of this subsection, "gross receipts" means the combined gross gambling receipts from bingo, pull-tab, and punch board activities. Bingo licensees must ensure that the adjusted cash flow from the bingo operation available for its charitable or nonprofit programs during each license year is, at least:

Gross Receipts*	Adjusted Cash Flow
(1) Above \$1,500,000 up to \$2,500,000	Three percent of gross receipts over \$1,500,000
(2) Above \$2,500,000 up to \$3,500,000	\$30,000 plus four percent of gross receipts over \$2,500,000
(3) Above \$3,500,000 up to \$4,500,000	\$70,000 plus five percent of gross receipts over \$3,500,000
(4) Above \$4,500,000	\$120,000 plus six percent of gross receipts over \$4,500,000

*If the licensee does not operate for a full license year, we may pro rate the requirements based on full quarters operated.

NEW SECTION

WAC 230-10-375 Failing to maintain a positive cash flow. (1) Bingo licensees must measure adjusted cash flow quarterly to ensure that they maintain a positive cash flow and are not operating primarily for gambling purposes.

(2) If a licensee does not maintain a positive cash flow from the bingo operation during any two consecutive license year quarters, measured independently, the director summarily suspends the organization's bingo license.

(3) If a licensee fails to meet the adjusted cash flow requirements for any calendar year, we take administrative action to revoke the organization's bingo license.

NEW SECTION

WAC 230-10-380 Relief reduction for minimum annual adjusted cash flow. (1) If a bingo licensee fails to meet the minimum annual adjusted cash flow requirements for any license year and has maintained a positive cash flow, the director automatically grants relief, allowing a twenty-five percent reduction to the annual dollar amount of required adjusted cash flow for the year in which the licensee is out of compliance.

(2) No licensee granted relief is eligible to receive relief for any of the four license years following the license year for which the director granted the relief.

METHODS OF RECEIPTING BINGO INCOME

NEW SECTION

WAC 230-10-385 Receipting of bingo income required. Bingo licensees must account for all income from bingo games at the time they receive the income. Licensees must issue each player a receipt for the amount paid to play in each game or set of games at the time of payment. Players must keep this receipt to prove that they have properly purchased the number of cards they are playing.

(1) Class A, B, and C licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair may use the receipting method for bingo income in WAC 230-07-125 or any of the methods for receipting bingo income required for Class D or above licensees; and

(2) Class D and above licensees must use the receipting method for bingo income required for the bingo games they are offering:

- (a) The disposable bingo card receipting method; or
- (b) The cash register receipting method; or
- (c) The electronically generated receipting method; or
- (d) The ticket receipting method; or
- (e) The combination receipting method.

NEW SECTION

WAC 230-10-390 Disposable bingo card method for receipting bingo income required when disposable bingo cards used. Bingo licensees must use the disposable bingo card method to receipt for bingo income when disposable bingo cards are used. Licensees using the disposable bingo card method to receipt for bingo income must:

(1) Use bingo cards that meet all disposable bingo card requirements; and

(2) Complete the inventory control record; and

(3) Record for each set of cards or sheets intended for playing a single game, including on-the-way games:

- (a) Serial number; and
- (b) The color and/or border pattern; and
- (c) The value of each card or sheet; and
- (d) The lowest consecutive card or sheet number issued as a receipt; and

(e) The last card or sheet number issued as a receipt; and

(f) Missing cards or sheets per the manufacturer's packing record; and

(g) The number of cards returned and not issued; and

(h) The number of cards issued as receipts; and

(i) The total gross gambling receipts from all cards issued as receipts; and

(4) Record for each set or collation of packs or packets of cards sold and intended for playing a defined set of games:

(a) The serial number of the top sheet or page of the packet; and

(b) The color and/or border pattern of the top sheet or page of the packet; and

(c) The lowest consecutive card, sheet, or packet number for the first packet issued as a receipt; and

(d) The card, sheet, or packet number of the last or highest packet issued as a receipt; and

(e) The number of packets issued as receipts; and

(f) The number of packets returned and not issued; and

(g) Missing packets per the manufacturer's packing record; and

(h) The value of each packet; and

(i) The total gross receipts from all packets issued as receipts; and

(5) Record each disposable card issued for each type of sale separately. When more than one card or sheet number appears on a sheet of cards, licensees must use the manufacturer's designated control system to determine the beginning and ending number sold. Each time the numbering of the sheets breaks in the set, licensees must make a separate entry in the records; and

(6) Sequentially issue each disposable card or sheet or packet of cards from the same set at each individual sales point. Licensees may sell these cards, sheets, or packets not issued during a session only at the next bingo session. Otherwise, licensees must retain these cards, sheets, or packets of cards for at least one year; and

(7) Return unsold cards issued to the operator for a linked bingo prize to the linked bingo prize provider. The linked bingo prize provider must store these cards six months or until we have examined and approved them for destruction, whichever is less. Unopened blocks of two hundred fifty cards may be reissued.

NEW SECTION

WAC 230-10-395 Cash register method of receipting for bingo income. Bingo licensees may use a cash register to record bingo income if the cash registers:

(1) Have separate keys to record each type of sale; and

(2) Store and compute a total for each type of sale recorded and is capable of providing the total on request; and

(3) Retain in the memory unit all transactions recorded during a session, regardless of whether or not the cash register power source is interrupted; and

(4) Record all transactions, customer receipt numbers, and control totals on the internal tape retained in the cash register. The licensee must keep the internal tape, showing these transactions, as part of the daily bingo records; and

(5) Assign and imprint on the customer receipt and internal tape a minimum four-digit consecutive number for every sales transaction processed. Only cash register service personnel may reset this numbering system and the numbering system must not return to zero at the conclusion of any period of use or power interruption. If licensees receive written approval from us before use, they may use cash registers that do not meet these requirements but have adequate alternative control features; and

(6) For Class D and above licensees, imprint a minimum three-digit consecutive number on the customer receipt and internal tape to note each time transactions are totaled or when a set of transactions are totaled and closed. If licensees receive written approval from us before use, they may use cash registers that do not meet these requirements but have adequate alternative control features.

NEW SECTION

WAC 230-10-400 Customer receipts for cash register method of receipting for bingo income. Bingo licensees must imprint at least the following on customer receipts:

- (1) The date; and
- (2) The name of the licensee operating the activity; and
- (3) The separate amount of money paid to play each type of game; and
- (4) The total amount of money paid; and
- (5) The consecutive customer receipt number.

NEW SECTION

WAC 230-10-405 Retaining cash register receipts for cash register method of receipting for bingo income. (1) Bingo licensees must keep all cash register receipts for voids, overrings, returns, "no sales," and any other receipts not issued to a player as part of the daily bingo records.

(2) If a cash register is used to receipt activities other than bingo, licensees must keep the internal cash register tapes for not less than two years and have them available for our review on request.

NEW SECTION

WAC 230-10-410 Electronically generated bingo card method of receipting bingo income. Bingo licensees may use the electronically generated bingo card method of receipting to document bingo income if the sales transaction and issuing cards to players are completed at the same time. Otherwise, licensees must use the combination receipting method.

NEW SECTION

WAC 230-10-415 Electronically generated bingo card method of receipting for bingo income requirements. Bingo licensees using the electronically generated bingo card method of receipting to document bingo income must:

(1) Summarize and print all transactions recorded during a bingo session in a permanent record at the end of each session. This record must provide, at least:

- (a) The beginning and ending card number; and
- (b) The beginning and ending transaction number; and
- (c) The total number of cards sold; and
- (d) The total number of sales transactions; and
- (e) The total dollar amount of sales for each type of sale;

and

- (f) The total dollar amount of sales; and
- (g) The number and dollar amount of all voids, overrings, or sale returns;

(2) Imprint all electronically generated cards or sheets of cards with a control system that includes, at least:

- (a) A card number assigned to each card. Each sheet of cards must be assigned a consecutive transaction number that does not repeat in less than 999,999 transactions; and
- (b) The name of the licensee; and
- (c) The time and date of the transaction; and
- (d) The game number; and

(e) The amount paid for the opportunity to play each game; and

(f) The total amount paid; and

(g) The manufacturer assigned numbers and card number or, if printed for a player selection game, the numbers the player selected; and

(3) Use a computer to store bingo cards and interface with a printer. The computer must:

(a) Retain in memory a record of all transactions occurring during a session until the operator has totaled, printed, and cleared the transactions, regardless of whether the primary power source is interrupted; and

(b) Compute a total of all transactions occurring during the current session and print out the total on request; and

(c) Maintain and control the time and date of sale and transaction number in a manner that prohibits change or resetting except by the manufacturer or qualified service personnel. Licensees must retain a detailed record, supported by service documents for each service call involving a change of the time, date, or transaction number; and

(d) Secure the electronically stored bingo cards in a manner that prevents an operator or player from modifying them. Licensees must not exchange, transfer, refund, or modify the price of cards issued to a player in any way after completion of the sales transaction. Cards must be stored on erasable programmable read only memory (EPROM), compact disc read only memory (CDROM), write once read many disc drives (WORM), or other systems we approve.

NEW SECTION

WAC 230-10-420 Ticket method of receipting bingo income. Bingo licensees may use tickets to document receipts of bingo income. Tickets must be:

(1) Manufactured by a commercial printer and imprinted with:

(a) At least four digit numbers in a sequential series. Class F and above licensees must use tickets with numbers that do not repeat in at least 99,999 occurrences; and

(b) Each ticket on a roll must represent the same dollar value or amount of money; and

(c) Include the name of the licensee operating Class F and above bingo game; and

(2) If used by Class F or above licensees, purchased from a licensed distributor or manufacturer; and

(3) Issued sequentially from each roll, starting with the lowest numbered ticket; and

(4) Accounted for by the licensee. If purchased from a commercial business or licensed distributor, documentation must be on the sales invoice. This invoice, or a photocopy, shall be maintained on the premises and available for inspection. Document the following information on the sales invoice for each roll of tickets purchased:

(a) Name of distributor; and

(b) Name of purchasing licensee; and

(c) Date of purchase; and

(d) Number of rolls of tickets purchased; and

(e) The color, dollar value, total number of tickets, and beginning ticket number for each roll; and

(5) Recorded in the daily records in the format we require; and

(6) Retained by the licensee as a part of the bingo daily records for those not issued as receipts and that bears a number falling below the highest numbered ticket issued during that session and not be used to receipt for any type of income; and

(7) Not be the same color and imprinted with the same ticket number as any other ticket on the premises.

NEW SECTION

WAC 230-10-425 Ticket method of bingo receipting for bingo income restrictions. (1) All bingo licensees may use the ticket method of receipting bingo income for drawings and good neighbor prizes offered at their bingo games.

(2) Class E and below licensees may use the ticket method for games operated with hard cards and for bonus games.

(3) Class F and above licensees may use the ticket method for bonus games as a part of the combination receipting method.

NEW SECTION

WAC 230-10-430 Keeping an inventory record for the ticket method of bingo receipting. (1) Bingo licensees must keep an inventory record in the format we require for all tickets used for income receipting.

(2) Licensees must enter all ticket information on the inventory record in the format we require before the beginning of the next bingo occasion.

NEW SECTION

WAC 230-10-435 Combination receipting method of receipting bingo income. (1) Bingo licensees may use a receipting method that combines cash register receipting with another approved method of receipting bingo income.

(2) Class F and above licensees must use combination receipting for income from sales of:

(a) Disposable bingo card packets; and

(b) Disposable bingo card sheets from a set of bingo cards divided into subgroups; and

(c) Electronically generated bingo cards, if sales transactions and issuing of cards are not completed and documented at the same time; and

(d) Bonus games.

NEW SECTION

WAC 230-10-440 Combination receipting method for bingo income requirements. (1) Bingo licensees using the combination method of receipting for bingo income must follow all requirements for cash register receipting; and

(2) Licensees may sell similar cards used to play for the same prize at a volume discount, but they must record each separate discount price using a separate cash register or sales identification key to provide an audit trail; and

(3) If receipting for the sale of disposable bingo cards, licensees must:

(a) Follow all requirements for disposable bingo card receipting; and

(b) In addition to those requirements, record the following for each session where sets of cards are sold:

(i) The session number and date; and

(ii) The beginning and ending control numbers of the top page of the packets; and

(iii) Adjustments for any missing packets, compared to the manufacturer's packing record; and

(iv) The number of packets distributed to sales points and returned as unsold; and

(v) Total packets sold; and

(vi) The value of each packet; and

(vii) The extended value obtained by multiplying total packets issued times the value of each packet; and

(viii) The cumulative number of packets issued from the series to date; and

(c) Sequentially issue each disposable card or sheet or packet of cards from the same set at each individual sales point. If sets are divided into subgroups, then licensees must issue packets or sheets of cards within each subgroup sequentially from each subgroup. Licensees may sell these cards, sheets, or packets not issued during a session only at the next bingo session. Otherwise, licensees must retain these cards, sheets, or packets of cards for at least one year; and

(d) Record all required information in the inventory control record; and

(e) Carry forward the totals from the transaction record to the daily bingo summary and reconcile sales against the cash register record; and

(4) If receipting for electronically generated bingo cards, licensees must:

(a) Follow all requirements of electronically generated bingo card receipting; and

(b) Carry forward the totals from the transaction record to the daily bingo summary and reconcile sales against the cash register record; and

(5) If receipting for bonus games, licensees must:

(a) Follow all requirements of ticket receipting; and

(b) Sequentially issue tickets from each sales point. Licensees must retain tickets from each sales point with control numbers lower than the highest ticket issued at that sales point as a part of the daily bingo records; and

(c) Carry forward the totals from the transaction record to the daily bingo summary and reconcile sales against the cash register record.

LINKED BINGO GAMES AND PRIZES

NEW SECTION

WAC 230-10-445 Linked bingo games and prizes. A linked bingo prize provider must request and receive approval from us before allowing a bingo operator to participate in a game that offers a linked bingo prize. A bingo operator must not offer more than one linked bingo game per session or no more than three linked bingo games per day. The linked bingo prize provider must notify us within seven days when an operator stops participating in linked bingo prize games.

NEW SECTION

WAC 230-10-450 Controlling gambling equipment by linked bingo prize licensees. Linked bingo prize licensees must control all gambling equipment in their possession.

NEW SECTION

WAC 230-10-455 Operating linked bingo prize games. (1) Bingo licensees operating linked bingo prize games must ensure that all numbers selected for a linked bingo prize are selected on the premises of a licensee taking part in the linked bingo prize and in the presence of players paying to participate in the game; and

(2) The caller must display the number to all players immediately after drawing each ball; and

(3) When a player declares a winning bingo for the main or bonus prize, a licensed gambling manager, a neutral player, and the game caller must verify the winning card and disclose the winning combination to all players; and

(4) The blower must remain in operation until management removes all balls and records the order in which they were removed; and

(5) Operators may have up to forty-eight hours to award a main or bonus prize to the winner(s); and

(6) If a linked bingo prize provider distributes cards so that duplicate cards are in play, then the linked bingo prize provider is responsible for paying the increases to the prize pool under WAC 230-10-125; and

(7) The linked bingo prize provider must establish procedures for participating operators to follow that reduce the possibility of error; and

(8) Before beginning a linked bingo prize game, each operator must tell their players the serial numbers and sheet numbers for all cards sold at their premises; and

(9) Linked bingo prize providers must not restrict licensees from participating. However, a linked bingo prize provider may establish minimum card sales by an operator to entitle that operator to receive equipment to conduct the game without paying compensation; and

(10) Linked bingo prize providers may establish a consolation prize amount paid at each participating location. Participating licensees whose sales volume does not meet the minimum set out in subsection (9) of this section may pay a consolation prize that is less than this amount; and

(11) If hidden face bingo cards are used, linked bingo prize providers may, as part of the game rules, allow players to mark all odd or even numbers based on the calendar date; and

(12) Class A, B, or C bingo licensees participating in linked bingo prizes must maintain all records required for Class D bingo licensees for all their bingo operations; and

(13) All card sales must stop before the drawing of the first ball; and

(14) Licensees may not require a player to call bingo on the last number called; and

(15) For all linked bingo prize games, a winner must be determined at each premises which sells cards to participate in the game; and

(16) For funds contributed to accrued linked bingo prizes, licensees must modify each bingo game daily record to include, at least:

(a) The amount of the contribution; and

(b) The amount of any consolation prize the licensee paid for a linked bingo prize game; and

(c) The name of the linked bingo prize provider to whom the contribution is made.

SHARING BINGO FACILITIES WITH OTHER CHARITABLE OR NONPROFIT ORGANIZATIONS

NEW SECTION

WAC 230-10-460 Shared bingo facilities. Multiple bingo licensees must enter into a written agreement before sharing a facility. Before operating in a shared facility, licensees must:

(1) Send us written notification of intent to share facilities at least thirty days before operating bingo in a shared facility. The notification must include, at least:

(a) The name of all organizations sharing the facility; and

(b) Names and signatures of the highest ranking officer for each organization involved; and

(c) Copies of any written agreements between organizations; and

(d) The method used to share expenses.

(2) Maintain management over their individual gambling activities.

(3) Be solely responsible for their individual records, inventory, management, equipment, and operation of the gambling activities for which they hold a license.

(4) Complete a separate quarterly activity report according to the gambling receipts and expenses it is responsible for under the terms of the written agreement between the licensees.

(5) Locate their head office or principal location in the same county where they operate bingo, or as otherwise defined in RCW 9.46.0205.

NEW SECTION

WAC 230-10-465 Sharing facilities and using the cash register system of receipting bingo income. Multiple bingo licensees sharing a facility may use a single cash register if the licensees maintain a log of, at least, the following:

(1) Name of the organization using the register; and

(2) Date; and

(3) Beginning and ending transaction numbers; and

(4) Beginning and ending time; and

(5) Name and signature of the cashier at the end of use.

NEW SECTION

WAC 230-10-470 Sharing management and accounting for shared bingo facilities. Before operating under shared management and facilities, bingo licensees must meet the following requirements:

(1) No more than three bingo licensees may share a facility.

(2) Licensees must send us a written notification of the intent to share facilities at least thirty days before operating in a shared facility. The notification must include, at least:

- (a) The name of the lead organization and lead manager; and
- (b) Name of all organizations sharing the facility; and
- (c) Names and signatures of the highest ranking officer for each organization involved; and
- (d) Copies of any written agreements between organizations; and
- (e) The method for sharing the gross gambling receipts, net income, expenses, and prizes among the licensees.

Management

(3) All managers of the bingo operation must be full and regular members or employees of at least one of the participating organizations.

(4) Nonprofit gambling managers must not participate in the operation of bingo games at more than one bingo facility.

Accounting

(5) The lead organization must maintain the records clearly disclosing the amount of money the bingo operation received and expended. Expense records must make known the purposes for which the organization spent money.

(6) The lead organization must establish and maintain a separate bank account to which it will deposit all proceeds from the bingo operation and from which it will pay all of the expenses in connection with the bingo operation, including at least, all payments of prizes.

(7) Each licensee must keep records of gambling proceeds received from the bingo operation and the use of those proceeds towards the stated purpose of the organization.

(8) Each licensee must complete a separate quarterly activity report according to the percentage of gambling receipts and expenses it is responsible for under the terms of the written contract between the licensees.

SHARING BINGO FACILITIES WITH FOR-PROFIT BUSINESSES

NEW SECTION

WAC 230-10-475 Operating bingo in a for-profit business premises. (1) Bingo licensees may operate bingo in a for-profit business if the:

(a) Bingo portion is separate and apart from the for-profit business portion. A transparent or solid barrier not less than seven feet high with no more than two openings must separate the two portions. Each opening must be no more than six feet in width; or

(b) For-profit business is closed when bingo games are operated.

(2) When the sale, service, or consumption of liquor is permitted in the for-profit business, the liquor licensee or permittee is responsible for complying with liquor laws and regulations.

(3) Commercial stimulant pull-tab licensees must not sell pull-tabs in the bingo portion of the premises. Pull-tab players may take the pull-tabs into the bingo portion. Players

must select and purchase the pull-tabs and operators pay prizes in the for-profit business portion.

(4) The owner, manager, or any employee of the for-profit business must not be an officer of the organization or participate in the operation of the bingo games on those premises.

WSR 07-10-034 PERMANENT RULES GAMBLING COMMISSION

[Order 611—Filed April 24, 2007, 12:30 p.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques. We anticipate the project will be completed by January 1, 2008. The rules manual is being broken into sections and rewritten a section at a time. At their October 2006, commission meeting, the commission voted to file a new chapter 230-15 WAC to codify rules relating to card rooms that had been rewritten in plain English, which was filed under WSR 06-24-057. At the February 2007, commission meeting, changes were made to eight of the rules in chapter 230-15 WAC. As such, these eight rules were held over for further discussion and a new filing, WSR 07-05-034, provided notice that changes were made to these rules.

Overview of changes

These post-January 1, 2008, card game rules were changed as they underwent review during the rules simplification project. We had several goals during rules simplification: To clarify the language in each rule, to reduce the number of words in each rule, to add any rule interpretations that addressed ambiguities in the rules, and to align the rules with current enforcement and compliance. During the public discussion of the filed rules, some amendments were necessary to correct misunderstandings, mistakes, and unclear language we had written into the rules. Because these changes were considered substantive, we chose to pull this group of rules and send it on a new filing track to give the public proper notice of the changes we had made to what was originally filed.

WAC 230-15-065 Enforcement of card game rules of play. The rule was amended to make house rules have priority over rules from one of the card game rule books we approve.

WAC 230-15-126 Cutting cards in center dealer-dealt games. This rule was added to complete instructions about cutting cards for all types of card games.

WAC 230-15-150 Selling and redeeming chips. This rule was amended to allow licensees more time to ensure that checks are deposited.

WAC 230-15-275 Surveillance requirements for Class F card games. This rule added camera coverage which included the table number. This had not been required of Class F licensees before.

WAC 230-15-285 Camera and monitor requirements for closed circuit television systems. This rule was amended to

add additional requirements for nonhouse-banked card games which had accidentally been removed.

WAC 230-15-320 Surveillance room requirements for house-banked card game licensees. This rule was amended to allow authorized personnel to escort any other person into the surveillance room for educational, investigative, or maintenance purposes.

WAC 230-15-400 Accounting for player-supported jackpot funds. This rule was amended to allow licensees more time to ensure that checks are deposited.

WAC 230-15-430 Internal control requirements. This rule was amended to change the department responsible for the destruction of damaged chips.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 07-05-034 on February 14, 2007, and published March 7, 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 8, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, 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 8, Amended 0, Repealed 0.

Date Adopted: April 24, 2007.

Susan Arland
Rules Coordinator

NEW SECTION

WAC 230-15-065 Enforcement of card game rules of play. Card game licensees must conduct card games according to the approved rules of play. We enforce rules of play in the following order:

(1) **First priority:** Rules explained in Title 230 WAC; and

(2) **Second priority:** Rules explained by a licensed manufacturer of a patented game that we have approved; and

(3) **Third priority:** House rules card game licensees have developed and we have approved; and

(4) **Fourth priority:** Rules explained in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Modern Encyclopedia of Card Games*, or a similar authoritative book on card games which we have approved.

NEW SECTION

WAC 230-15-126 Cutting cards in center dealer-dealt games. In center dealer-dealt games:

(1) After the shuffle, the dealer must offer the cards to a player for a cut. After this initial offer of a cut, the dealer may

require any player who asks for a cut to pay a maximum of one dollar; and

(2) Dealers must:

(a) Not cut the cards more than twice during each hand or game; and

(b) Place all the fees for cutting the cards into the pot for that hand or game.

NEW SECTION

WAC 230-15-150 Selling and redeeming chips. (1) Card game licensees must:

(a) Sell chips and redeem chips at the same value; and

(b) Sell chips for cash at gambling tables; and

(c) Keep all funds from selling chips separate and apart from all other money received; and

(d) Not extend credit to a person purchasing chips, including to card room employees playing cards; and

(2) Licensees may accept checks, if the checks meet the requirements of WAC 230-06-005. They must:

(a) Deposit any check retained after the close of business no later than the second banking day after the close of business. Checks deposited to an armored car service no later than the second banking day after the close of business meet this requirement; and

(b) Count each transaction for the purchase of chips as a separate transaction. (Example: They must not allow a player's check to be altered after it is exchanged for chips.)

NEW SECTION

WAC 230-15-275 Surveillance requirements for Class F card games. (1) Class F licensees must use a closed circuit television system (CCTV) to record critical activities when:

(a) Operating player-supported jackpots; or

(b) Assessing fees on amounts wagered (rake method).

(2) Class F licensees must have a CCTV that views:

(a) All gambling at each table including, at least, the:

(i) Cards; and

(ii) Wagers; and

(iii) Chip tray; and

(iv) Drop box openings; and

(v) Table number; and

(vi) Players; and

(vii) Dealers; and

(b) When the count is being conducted, at least, the:

(i) Count table; and

(ii) Floor; and

(iii) Drop boxes; and

(iv) Drop box storage shelves/cabinets.

NEW SECTION

WAC 230-15-285 Camera and monitor requirements for closed circuit television systems. (1) Class F and house-banked licensees' closed circuit television system must consist of light sensitive cameras capable of permitting the viewer to determine card and chip values. Each video camera must be capable of having the images displayed on a video monitor and recorded.

(2) Class F and house-banked licensees must install, at least:

(a) Cameras in a manner that will prevent them from being obstructed, tampered with, or disabled; and

(b) Pan, tilt, zoom (PTZ) cameras behind a smoked dome, one-way mirror, or similar materials that conceal the camera from view; and

(c) One or more fixed camera focused over each gambling table, covering the entire table layout.

(d) In nonhouse-banked games, an additional fixed camera must focus over the dealer area, covering the chip rack, all drop box openings, and the community card area; and

(e) A sufficient number of fixed cameras and/or PTZ cameras to monitor players and dealers at each gambling table. The PTZ cameras must be:

(i) Permanently programmed; and

(ii) Capable of viewing each patron and dealer at each gambling position at least once every five minutes; and

(f) A sufficient number of fixed cameras and/or PTZ cameras in the count area or count room; and

(g) Fixed cameras and/or PTZ cameras in any other location deemed necessary.

(4) In addition, house-banked card game licensees must:

(a) Install a sufficient number of video monitors in their CCTV system to simultaneously view multiple gambling tables, the cashier's cage, and count room activities;

(b) Install a sufficient number of fixed cameras and/or PTZ cameras in the cage(s); and

(c) Install a sufficient number of PTZ cameras having the ability to determine the card and chip values for winning hands.

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

NEW SECTION

WAC 230-15-320 Surveillance room requirements for house-banked card game licensees. House-banked card game licensees must maintain one or more surveillance rooms. They must:

(1) Control access to the surveillance room so that only surveillance department employees use the room. Owners or their approved supervisory or management personnel may also enter the surveillance room to monitor activities. Licensees may allow authorized personnel to escort any other person into the surveillance room for educational, investigative, or maintenance purposes; and

(2) Ensure that surveillance room entrances are not easily observed from the gambling floor; and

(3) Ensure that a surveillance employee is present in the room and monitoring activities using the equipment any time the card room is conducting gambling and during the count process. However, licensees may operate the surveillance room without staff for routine breaks that are less than thirty minutes per shift; and

(4) Ensure that any time a winning wager, a jackpot, or bonus pay out greater than one thousand dollars is won, they use pan-tilt-zoom (PTZ) cameras to verify:

(a) Winning hands; and

(b) Amounts of the wager; and

(c) Amounts of the pay out; and

(d) Players who won the prize.

NEW SECTION

WAC 230-15-400 Accounting for player-supported jackpot funds. Class F or house-banked licensees must:

(1) Maintain a separate bank account in a bank, mutual savings bank, or credit union in Washington state for holding player-supported jackpot (PSJ) funds; and

(2) Deposit only funds from PSJs into the account; and

(3) Not make payouts from the PSJ funds until licensees have first deposited the funds in the PSJ account. However, licensees may pay out prizes won during the gambling day and deduct administrative expenses before licensees deposit the funds; and

(4) Deposit the PSJ funds into the PSJ account or with an armored car service no later than the second banking day after the close of business; and

(5) Identify all deposits of PSJ funds by the type of PSJ fund and date of collection. Licensees must keep the validated deposit receipts as a part of their required daily records; and

(6) Transfer the amount from the PSJ account to the cage or general account before the end of the month if PSJ prizes are paid from the cage or general account. The licensee must keep the transfer information as part of the written records; and

(7) Reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

NEW SECTION

WAC 230-15-430 Internal control requirements.

General accountability requirements.

(1) House-banked card game licensees must have a system of internal controls including, at least:

(a) **Accounting controls** - Include the licensee's plan, procedures, and records concerned with the safeguarding of assets and the reliability of financial records. Licensees must design these controls to provide reasonable assurance that:

(i) Transactions are executed with management's general and specific authorization; and

(ii) Transactions are recorded so that financial statements are prepared in conformity with generally accepted accounting principles (GAAP), and so that accountability for assets is maintained; and

(iii) Access to assets is permitted only with management's authorization; and

(iv) Records are compared with existing assets at least annually and appropriate action is taken within five working days to correct any differences; and

(b) **Administrative controls** - Include, at least, the licensee's plan, procedures, and records outlining decision-mak-

ing processes that lead to authorization of transactions. These must provide for:

- (i) Competent personnel with an understanding of internal control procedures; and
- (ii) Segregation of incompatible functions so that no employee is in a position to commit and conceal errors or wrongdoings in the normal course of his or her duties.

Designating a general manager.

(2) The owner, partners, or board of directors for the licensee must designate an individual with overall responsibility for the business, called the "general manager." The general manager may also perform the duties of a gambling operations department manager; and

Establish separate departments or functions.

(3) Licensees must establish separate departments or functions which must be independent from each other. At a minimum, these must include:

- (a) Surveillance;
- (b) Security;
- (c) Gambling; and
- (d) Accounting.

Surveillance department requirements.

(4) The surveillance department manager must ensure that surveillance employees follow all requirements of the surveillance WACs, including, at least:

- (a) Closely and clandestinely observing the operation of the card games, the cashier's cage, and count room; and
- (b) Recording video and audio of the activities in the count room; and
- (c) Monitoring for cheating, theft, embezzlement, and other illegal activities on the licensed premises; and
- (d) Recording video of unusual or suspected illegal activities; and
- (e) Notifying appropriate supervisors and us, within three working days, when they detect cheating, theft, embezzlement, or other illegal activities related to gambling; and
- (f) Giving our agents or law enforcement personnel immediate access to the surveillance room; and
- (g) Ensuring that each dealer is evaluated to determine if he or she follows all required dealer procedures set out in the house-banked card game licensee's approved internal controls; and
- (h) Documenting procedures about how winning wagers, jackpots, or bonus pay outs will be verified; and
- (i) Ensuring that all surveillance employees have demonstrated a knowledge of:
 - (i) Operating surveillance systems; and
 - (ii) Rules of play and procedures for the games being played; and
 - (iii) Overall procedures relating to the duties of all employees of the house-banked card room, including dealers, shift managers, floor supervisors, cage cashiers and count team members.

Security department requirements.

(5) The security department manager must ensure that security employees control:

- (a) Transfer of cash and chips to and from the gambling tables, cage, and count room; and
- (b) Dealing shoes and new and used cards, when not in use or when held in evidence; and
- (c) Disposing of or destroying used cards and dealing shoes, and observing accounting department employees when they destroy damaged chips when removed from service.

Gambling operations department requirements.

(6) The gambling operations department manager, or general manager, is responsible for house-banked card games and must ensure that:

- (a) Dealers operate card games at assigned gambling tables; and
- (b) Cards and dealing shoes are properly accounted for when in use on the gambling floor; and
- (c) There is adequate supervision on the business premises.

Accounting department requirements.

(7) The accounting department must be supervised by a person who reports directly to the general manager. The accounting department must, at least:

- (a) Implement and monitor accounting controls; and
- (b) Control processes in the count room and cashier's cage; and
- (c) Supervise the count room personnel and cashier's cage personnel; and
- (d) Control the inventory of unused forms; and
- (e) Reconcile the used and unused forms; and
- (f) Prepare, control, and store records and data we require; and
- (g) Oversee, with the help of the security department, the destruction of damaged chips removed from service.

WSR 07-10-042
PERMANENT RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed April 25, 2007, 4:01 p.m., effective June 25, 2007]

Effective Date of Rule: June 25, 2007.

Purpose: The current code of conduct is unclear and confusing. The district would like to completely overhaul the code to provide more clarity and precision to better serve students and the college personnel that work with the student code of conduct.

Citation of Existing Rules Affected by this Order: Repealing WAC 132Q-02-010 through 132Q-02-330 and 132Q-02-420 through 132Q-02-450; and amending chapter 132Q-02 WAC, WAC 132Q-02-340 through 132Q-02-400, and 132Q-07-010 through 132Q-07-030.

Statutory Authority for Adoption: Community Colleges of Spokane board of trustees [chapter 28B.50 RCW].

Adopted under notice filed as WSR 07-03-152 on January 23, 2007.

Changes Other than Editing from Proposed to Adopted Version: Two clarifying amendments: WAC 132Q-02-380(6), change title from "appropriate vice president" to "chief student services officer" to be consistent and WAC 132Q-30-242(1), add "; and/or" for clarification.

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

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Date Adopted: March 20, 2007.

W. Scott Morgan
Chief Operations Officer

Chapter 132Q-30 WAC

STANDARDS OF CONDUCT FOR STUDENTS

NEW SECTION

WAC 132Q-30-101 Standards of conduct for students—Preamble. (1) Community Colleges of Spokane (CCS), a multicollege district, provides its community and students with education and services of the highest quality. We do this in a manner which exhibits concern and sensitivity to students, faculty, staff and others who utilize our services and facilities. It is essential that members of CCS exhibit appropriate and conscientious behavior in dealing with others.

(2) CCS expects all students to conduct themselves in a manner consistent with its high standards of scholarship and conduct. Student conduct, which distracts from or interferes with accomplishment of these purposes, is not acceptable. Students are expected to comply with these standards of conduct for students both on and off campus and acknowledge the college's authority to take disciplinary action.

(3) Admission to a college within CCS carries with it the presumption that students will conduct themselves as responsible members of the academic community. This includes an expectation that students will obey the law, comply with policies, procedures and rules of the district, the colleges and their departments, maintain a high standard of integrity and honesty and respect the rights, privileges and property of other members of CCS.

(4) It is assumed that students are and wish to be treated as adults. As such, students are responsible for their conduct. These standards of conduct for students promote CCS' educational purposes and provide students a full understanding of their rights and responsibilities. Sanctions for violations of

the standards of conduct for students will be administered under this chapter. When violations of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to proper authorities and in the case of minors, this conduct may be referred to parents or legal guardians.

(5) This chapter, chapter 132Q-30 WAC, constitutes the Community Colleges of Spokane standards of conduct for students.

NEW SECTION

WAC 132Q-30-105 Definitions. For the purposes of this chapter, the following terms shall mean:

(1) "Accused student" means any student accused of violating the standards of conduct for students.

(2) "Appeal board" is a district-wide board composed of one administrator from each college appointed by the chief executive of that college. The appeal board considers appeals from a student conduct board's determination or from the sanctions imposed by the chief student services officer. The board is convened by the chief student services officer.

(3) The "chief student services officer" is that person designated by the college president/executive vice-president to be responsible for the administration of the standards of conduct for students. The term also includes a college official designated by the chief student services officer to act on his/her behalf in matters related to this chapter.

(4) "College" means Spokane Community College, Spokane Falls Community College, or the Institute for Extended Learning, at all locations of Community Colleges of Spokane (CCS).

(5) "College official" includes any person employed by the college performing assigned duties.

(6) "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the Community Colleges of Spokane (including adjacent streets and sidewalks).

(7) "Complainant" means any member of CCS who submits a charge alleging that a student violated the standards of conduct for students. When students believe they have been victimized by someone's misconduct, they have the same rights under these standards as are provided to the complainant, even if another member of CCS submitted the charge itself.

(8) "Faculty member" means a teacher, counselor, or librarian or person who is otherwise considered by the college to be a member of its faculty.

(9) "Instructional day" means Monday through Friday, except for federal or state holidays, when students are in attendance for instructional purposes.

(10) "Member of CCS" includes any person who is a student, faculty member, college official, or any other person employed by CCS. A person's status in a particular situation is determined by the chief student services officer.

(11) "Student" includes a person taking courses at the college, either full-time or part-time. The term also includes persons who withdraw after allegedly violating the standards of conduct for students, who are not officially enrolled for a particular quarter but have a continuing relationship with the

college (including suspended students), students on study abroad programs or who have been notified of their acceptance for admission. "Student" also includes "student organization."

(12) "Student organization" means any number of persons who have complied with the formal requirements for college recognition, such as clubs and associations, and are recognized by the college as such.

(13) "Student conduct board" is a board appointed by the chief executive officer of the college to hear complaints referred by the chief student services officer to determine whether a student has violated the standards of conduct for students, and to impose sanctions when a violation has been committed. The board shall have at least one member from the respective groups: Faculty, students, administration. The chief student services officer convenes the board and appoints the chair.

NEW SECTION

WAC 132Q-30-110 Interpretations. Any question of interpretation or application of the standards of conduct for students shall be determined by the chief student services officer.

NEW SECTION

WAC 132Q-30-115 Decisions and appeals. Decisions made by a student conduct board or chief student services officer remain in effect during the appeal processes provided in this chapter. Appeals will comply with this chapter.

NEW SECTION

WAC 132Q-30-120 Jurisdiction of the standards of conduct for students. The standards of conduct for students apply to conduct that occurs on college premises, at college-sponsored activities, and to off-campus conduct that adversely affects CCS and/or the pursuit of its objectives. Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, athletic events, training internships, cooperative and distance education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The college has sole discretion to determine what conduct occurring off campus adversely impacts the college and/or the pursuit of its objectives.

NEW SECTION

WAC 132Q-30-125 Violation of law and standards of student conduct. (1) College disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and the standards of

conduct for students without regard to pending criminal litigation in court or criminal arrest and prosecution. Proceedings under these standards of conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings at the discretion of the chief student services officer. Determinations made or sanctions imposed under these standards of conduct are not subject to change because criminal charges were dismissed, reduced or resolved in favor of or against the criminal law defendant. Students in this circumstance who remain silent should recognize that they give up their opportunity to explain their side of the story and that a decision will be made based on the information presented.

(2) When a student is charged by federal, state or local authorities with a violation of law, the college does not request or agree to special consideration for that student because he or she is a student. If the alleged offense also is being processed under the standards of conduct for students, the college may advise off-campus authorities of the existence of the standards and of how such matters are typically handled within CCS. The college cooperates with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators provided that the conditions do not conflict with college rules or sanctions. Members of CCS, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

NEW SECTION

WAC 132Q-30-130 Responsibility for guests. A student or student organization is responsible for the conduct of guests on or in college premises and at functions sponsored by the college or sponsored by a recognized student organization.

NEW SECTION

WAC 132Q-30-135 Students studying abroad. Students who participate in any college-sponsored or sanctioned international study program shall observe the following:

- (1) The laws of the host country;
- (2) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;
- (3) Any other agreements related to the student's study program in another country; and
- (4) The CCS standards of conduct for students.

NEW SECTION

WAC 132Q-30-140 Group conduct. Student organizations are expected to comply with the standards of conduct for students and with CCS policies and procedures. When a member or members of a student organization violates the standards of conduct for students or CCS policies or procedures, the student organization or individual members may be subject to appropriate sanctions.

NEW SECTION

WAC 132Q-30-145 Records. (1) Disciplinary records are maintained in accordance with the records retention schedule.

(2) The disciplinary record is confidential.

(3) Students may request a copy of their own disciplinary record at their own reasonable expense by making a written request to the chief student services officer.

(4) Personally identifiable student information is redacted to protect another student's privacy.

(5) Students may authorize release of their own disciplinary record to a third party in compliance with the Family Educational Rights and Privacy Act (FERPA) by making a written request to the chief student services officer.

(6) The college may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence as defined at Section 16 of Title 18 of FERPA.

(7) The college may not communicate a student's disciplinary record to any person or agency outside the college without the prior written consent of the student, except as required or permitted by law. Exceptions include:

(a) The student's parents or legal guardians may review these records, if the student is a minor or a dependent for tax purposes as permitted by FERPA.

(b) To another educational institution, upon request, where the student seeks or intends to enroll.

NEW SECTION

WAC 132Q-30-200 Misconduct—Violations of the standards of conduct for students. A student or student organization found to have committed or to have attempted to commit misconduct specified in WAC 132Q-30-210 through 132Q-30-299 is subject to the disciplinary process of WAC 132Q-30-300 through 132Q-30-399 and to the disciplinary sanctions in WAC 132Q-30-400.

NEW SECTION

WAC 132Q-30-210 Academic dishonesty. Acts of academic dishonesty include the following:

(1) Cheating, which includes:

(a) Use of unauthorized assistance in taking quizzes, tests, or examinations.

(b) Acquisition, without permission, of tests or other academic material belonging to a member of the college faculty or staff.

(c) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;

(ii) Counterfeiting a record of internship or practicum experiences;

(iii) Submitting a false excuse for absence or tardiness;

(iv) Unauthorized multiple submission of the same work; sabotage of others' work.

(d) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

(e) Plagiarism which includes the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(f) Facilitation of dishonesty, including not challenging academic dishonesty.

(2) Knowingly furnishing false information to any college official, faculty member, or office including submission of fraudulent transcripts from other institutions.

(3) Forgery, alteration or misuse of any college document, record or instrument of identification.

(4) Acts of academic dishonesty will be reported by the faculty member to the chief student services officer.

NEW SECTION

WAC 132Q-30-212 Disruption or obstruction. Students have the right to freedom of speech, including the right to dissent or protest, but this expression may not interfere with the rights of other members of CCS or disrupt college activities. Prohibited behavior includes disruption or obstruction of teaching, administration, disciplinary proceedings, other college activities, or authorized noncollege activities when the conduct occurs on college premises. Obstructing the free flow of pedestrian or vehicular traffic on college premises or at college-sponsored events is prohibited.

NEW SECTION

WAC 132Q-30-214 Abuse of self or others. Physical abuse, threats, intimidation and/or other conduct, which threatens or endangers the health or safety of any person, including one's self.

NEW SECTION

WAC 132Q-30-216 Theft or damage to property. Theft of, and/or damage to, property of the college or property of a member of CCS or other personal or public property, on or off campus.

NEW SECTION

WAC 132Q-30-218 Hazing. (1) Conspiring to engage in hazing or participating in hazing of another.

(a) Hazing means any activity expected of someone joining a group (or maintaining full status in a group) that causes or is likely to cause a risk of mental, emotional and/or physical harm, regardless of the person's willingness to participate.

(b) Hazing activities may include the following: Abuse of alcohol during new member activities; striking another person whether by use of any object or one's body; creation of excessive fatigue; physical and/or psychological shock; and morally degrading or humiliating games or activities that create a risk of bodily, emotional, or mental harm.

(c) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and intercollegiate athletics, or other similar contests or competitions, but gratuitous haz-

ing activities occurring as part of such customary athletic event or contest are prohibited.

(2) Washington state law prohibits hazing which may subject violators to criminal prosecution under RCW 28B.10.901.

(3) Washington state law (RCW 28B.10.901) provides sanctions for hazing.

NEW SECTION

WAC 132Q-30-220 Failure to comply with college officials. Failure to comply with directions of college officials acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

NEW SECTION

WAC 132Q-30-222 Unauthorized keys or unauthorized entry. Unauthorized possession, duplication, or use of keys to any college premises, or unauthorized entry to or use of college premises.

NEW SECTION

WAC 132Q-30-224 Violation of CCS policy, procedure, rule, or regulation. Violation of policies, procedures, rules, or regulations of CCS, its colleges and departments.

NEW SECTION

WAC 132Q-30-226 Violation of law. Violation of any federal, state, or local law.

NEW SECTION

WAC 132Q-30-228 Drugs and drug paraphernalia. Use, possession, manufacture, or distribution of marijuana, narcotics, or other controlled substances, and drug paraphernalia except as expressly permitted by federal, state, and local law.

NEW SECTION

WAC 132Q-30-230 Alcohol. Use, possession, manufacture, or distribution of alcoholic beverages (except as expressly permitted by college rules), or public intoxication are prohibited. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under twenty-one years of age.

NEW SECTION

WAC 132Q-30-232 Firearms and dangerous weapons. No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on college premises. Paintball guns, air guns and any other items that shoot projectiles are not permitted on college premises.

NEW SECTION

WAC 132Q-30-234 Disorderly conduct. Conduct that is disorderly, lewd, or indecent, disturbing the peace, or assisting or encouraging another person to disturb the peace.

NEW SECTION

WAC 132Q-30-236 Unauthorized use of electronic or other devices. Making an audio or video record of any person while on college premises without his/her prior knowledge, or without his/her effective consent, when such a recording is likely to cause injury or distress. This includes surreptitiously taking pictures of another person in a gym, locker room, or restroom.

NEW SECTION

WAC 132Q-30-238 Abuse or theft of CCS information technology. Theft or abuse of computer facilities, equipment and information technology resources including:

- (1) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
- (2) Unauthorized transfer of a file.
- (3) Use of another individual's identification and/or password.
- (4) Use of computing facilities and resources to interfere with the work of another student, faculty member, or college official.
- (5) Use of computing facilities and resources to send obscene, harassing, or threatening messages.
- (6) Use of computing facilities and resources to interfere with normal operation of the college computing system.
- (7) Use of computing facilities and resources in violation of copyright laws.
- (8) Any violation of the CCS Information Technology Resources Acceptable Use Policy (7.30.05) or procedure.

NEW SECTION

WAC 132Q-30-240 Abuse of the student conduct system. Abuse of the student conduct system, including:

- (1) Failure to obey the notice from a student conduct board or college official to appear for a meeting or hearing as part of the student conduct system.
- (2) Willful falsification, distortion, or misrepresentation of information before a student conduct board.
- (3) Disruption or interference with the orderly conduct of a student conduct board proceeding.
- (4) Filing fraudulent charges or initiating a student conduct proceeding in bad faith.
- (5) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
- (6) Attempting to influence the impartiality of a member of a student conduct board prior to or during the course of the student conduct board proceeding.
- (7) Harassment (verbal or physical) or intimidation of a member of a student conduct board prior to, during, or after a student conduct code proceeding.
- (8) Failure to comply with the sanction(s) imposed under the standards of conduct for students.

(9) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

NEW SECTION

WAC 132Q-30-242 Discrimination. Discrimination on the basis of race, national or ethnic origin, creed, age, sex, marital status, veteran's status, sexual orientation, or disability is prohibited in conformity with federal and state laws. Discrimination includes sexual or racial harassment which is defined as conduct that is:

(1) Sexually or racially motivated and has the purpose or effect of unreasonably interfering with a person's work or educational performance; and/or

(2) Creating an intimidating, hostile, or offensive environment.

NEW SECTION

WAC 132Q-30-244 Sexual misconduct. Sexual misconduct of any kind including rape, indecent liberties, assault of a sexual nature, voyeurism, or unwanted sexual contact is prohibited.

(1) Rape is sexual intercourse with a person who did not consent by his or her words or conduct. Consent to sexual activity means actual words or conduct indicating the person has freely and voluntarily agreed to have sexual intercourse.

(a) Silence or mere passivity from a state of intoxication or unconsciousness does not imply consent to sexual intercourse.

(b) Lack of consent is implied if force or blackmail is threatened or used.

(2) Indecent liberties means knowingly causing sexual contact with a person by forcible compulsion or when the person is incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness. Sexual contact is defined as any nonconsensual touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party.

(3) Voyeurism is arousing or gratifying sexual desire by viewing, photographing, or filming another person without that person's knowledge and consent and/or while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy.

NEW SECTION

WAC 132Q-30-246 Harassment. Conduct by any means that is sufficiently severe, pervasive, or persistent so as to threaten an individual or limit the individual's ability to work, study, or participate in the activities of the college.

NEW SECTION

WAC 132Q-30-248 Stalking. Intentionally and repeatedly harassing or following a person and placing the person being followed or harassed in fear of physical harm to one's self or property or physical harm to another person or another's property.

NEW SECTION

WAC 132Q-30-250 Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property.

NEW SECTION

WAC 132Q-30-252 Trespassing. Any person who has been given written notice, served by a college official, excluding him or her from college property is not licensed, invited, or otherwise privileged to enter or remain on college property, unless given explicit written permission by a college official.

NEW SECTION

WAC 132Q-30-254 Violation of a disciplinary sanction. Violation of any term or condition of any disciplinary sanction constitutes a new violation and may subject the student to additional sanctions.

NEW SECTION

WAC 132Q-30-305 Complaints. Members of CCS may file with the chief student services officer a written complaint against a student for violation of the standards of conduct for students. Complaints are to be submitted as soon as possible after the event takes place, preferably within thirty calendar days after the event.

NEW SECTION

WAC 132Q-30-310 Disposition of complaints by the chief student services officer. The chief student services officer determines if the complaint has merit. If the complaint has merit the chief student services officer meets with the student to discuss the complaint and an agreed upon resolution. If an agreed upon resolution cannot be reached the chief student services officer may:

(1) Dismiss the complaint;

(2) Determine the appropriate sanctions to be imposed on the student; or

(3) Send the matter to the student conduct board.

NEW SECTION

WAC 132Q-30-315 Notice to the accused student of complaint. (1) All complaints deemed by the chief student service officer to have merit are presented to the accused student in written form, in person, by regular mail or electronic mail. Notice by mail is sent to the student's last known local address. If the student no longer is enrolled at the time notice is sent, the notice is sent to the student's permanent address. The student is responsible for providing the college the current address.

(2) The written notice shall include:

(a) The specific complaint, including the policy, procedure, rule or standard of conduct allegedly violated;

(b) The approximate time and place of the alleged act;

(c) The time and place of the meeting with the chief student services officer. A time for the meeting is set not less

than five nor more than ten instructional days after the student has been notified. Time limits may be altered by the chief student services officer at the written request of the accused student.

NEW SECTION

WAC 132Q-30-320 Interim suspension. (1) In certain circumstances, the chief student services officer may impose an interim suspension from college prior to the student conduct board hearing. Interim suspension may be imposed only:

(a) In situations involving an immediate danger to the health, safety, or welfare of members of CCS or the public at large;

(b) To ensure the student's own physical safety and well-being; or

(c) If the student poses an ongoing threat of disruption to, or interference with, the operations of the college.

(2) During the interim suspension, a student may be denied access to classes, activities and privileges, as the chief student services officer determines.

(3) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

NEW SECTION

WAC 132Q-30-325 Student conduct board hearings. Student conduct board hearings are conducted as follows:

(1) Hearings will take place between five and ten instructional days from the date of the meeting with the chief student services officer. The chief student services officer will notify the student of the time and place of the hearing.

(2) Hearings are conducted in private.

(3) The complainant, the accused student, and their respective advisors may attend the portion of the hearing at which information is received, but may not attend the board's deliberations. Admission of any other person to the hearing is at the discretion of the student conduct board chair or the chief student services officer.

(4) In circumstances involving more than one accused student, the chief student services officer may permit joint or separate hearings.

(5) The complainant and the accused student have the right to be assisted by an advisor they choose, at their own expense. The complainant and the accused student are responsible for presenting their own information. Advisors are not permitted to address the board or participate directly in the hearing. An advisor may communicate only with the person they are advising. The board chair may call recesses to facilitate this communication. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays are not normally allowed due to the scheduling conflicts of an advisor.

(6) The complainant, the accused student, and the board chair may arrange for witnesses to present pertinent information to the student conduct board. Witnesses may provide written statements in lieu of their attendance at the hearing. The accused student is responsible for informing his/her witnesses of the time and place of the hearing. Witnesses pro-

vide information to, and answer questions from, the student conduct board. To preserve the educational tone of the hearing and to avoid an adversarial environment, questions are directed to the chair, rather than to the witness directly. Questions concerning whether potential information may be received are resolved by the chair.

(7) The board chair determines which records, exhibits and written statements may be accepted as information for consideration by the board.

(8) Formal rules of process, procedure and technical rules of evidence, such as are applied in criminal or civil court, are not used in board proceedings.

(9) Questions related to the order of the proceedings are determined by the board chair.

(10) If an accused student, with notice, does not appear before a student conduct board hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

(11) The board chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means.

(12) There is a single verbatim record, such as a tape recording or transcript, of the information gathering portion of student conduct board hearings. Board deliberations are not recorded. The record is the property of the college.

NEW SECTION

WAC 132Q-30-330 Student conduct board decision and notification. (1) At the conclusion of the hearing and deliberations the student conduct board determines by majority vote whether the accused student has violated the standards of conduct for students (WAC 132Q-30-200 through 132Q-30-299). If so, the board determines and imposes the appropriate sanctions from WAC 132Q-30-400.

(2) The burden of proof that guides the board's decision is the preponderance of evidence, whether it is more likely than not that the accused student violated the standards of conduct for students.

(3) The chief student services officer notifies the student in writing, in person, by mail or electronic mail of the board's decision. Notice is sent within ten calendar days from the hearing date. If the college is not in session, this period may be reasonably extended. The chief student services officer includes in the written notice of the decision the reasons for the decision, the sanctions, and information about the appeal process. The chief student services officer may notify the student prior to receipt of the formal written notice. The notice, if sent by mail, is sent to the student's last known address.

(4) The written decision is the college's initial order. Appeals are governed by WAC 132Q-30-335.

(5) If the student does not appeal the board's decision within twenty-one calendar days from the date of the decision, it becomes the college's final order.

NEW SECTION**WAC 132Q-30-335 Appeals—Review of decision.** (1)

A decision reached by the student conduct board or a sanction imposed by the chief student services officer may be appealed by the accused students in writing to the chief student services officer within twenty-one calendar days of the date of the decision.

(2) Appeals are reviewed by the appeals board. Except as required to explain the basis of new information, an appeal is limited to a review of the verbatim record of the student conduct board hearing and supporting documents for one or more of the following purposes:

(a) Determine whether the student conduct board hearing was conducted fairly in light of the charges, and whether information was presented in conformity with prescribed procedures giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice is evident.

(b) Determine whether the decision is supported by the evidence.

(c) Determine whether the sanctions imposed are appropriate for the violation which the student was found to have committed.

(d) Consider new information, sufficient to alter a decision, or other relevant facts not disclosed in the original hearing, because such information and/or facts were not known to the student appealing at the time of the chief student services officer's decision or the student conduct board hearing.

(3) The appeal board shall review the record and make one of the following determinations:

(a) Affirm the decision and uphold sanctions; or

(b) Reverse the decision; or

(c) Affirm the decision and modify the sanctions imposed.

(4) The student is notified of the appeal board's decision within twenty calendar days from the date of the appeal letter. If the college is not in session, this period may be reasonably extended. The appeal board's decision is the college's final order and may not be appealed.

NEW SECTION

WAC 132Q-30-400 Disciplinary sanctions. (1) The following sanctions may be imposed by the chief student services officer or the student conduct board on a student found to have violated the standards of conduct for students.

(a) Warning. A notice in writing to the student that the student is violating or has violated standards of conduct for students and a disciplinary record has been created.

(b) Probation. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any standards of conduct for students during the probationary period.

(c) Loss of privileges. Denial of specified privileges for a designated period of time.

(d) Restitution or compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Education. The college may require the student to complete an educational project or attend sessions, at the student's expense, which address the student's behavior such as anger management or counseling.

(f) Fines may be imposed by the college.

(g) College suspension. Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. (h) College expulsion. Permanent separation of the student from the college.

(i) Revocation of admission or degree. Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation, or other violation of standards of conduct for students in obtaining the degree, or for other serious violations committed by a student prior to graduation.

(j) Withholding degree. The college may withhold awarding a degree otherwise earned until the completion of the process set forth in this chapter, including the completion of all sanctions imposed.

(k) No trespass order. A student may be restricted from college property based on his/her misconduct.

(l) Assessment. The student may be required to have an assessment, such as alcohol/drug or anger management, by a certified professional, and complete the recommended treatment.

(m) Loss of recognition. A student organization's recognition may be withheld permanently or for a specific period of time. Loss of recognition is defined as withholding college services or administrative approval from a student organization. Services and approval to be withdrawn include intramural sports, information technology services, college facility use and rental, and involvement in organizational activities.

(n) Hold on transcript or registration. This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of the conditions of the sanction, the hold is released.

(o) No contact order. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(2) A sanction may be made effective for the entire district or the student's college. If only to the student's college, the chief student services officers at the other colleges may enforce the disciplinary action at their respective college.

(3) More than one of the sanctions listed in subsection (1) of this section may be imposed for any single violation.

(4) Other than college expulsion or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's academic record, but are part of the student's disciplinary record.

(5) If a student's behavior is found to have been motivated by another's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, sensory handicap, or veteran's status, such finding is considered an aggravating factor in determining a sanction for such conduct.

NEW SECTION

WAC 132Q-30-500 Classroom misconduct and authority to suspend for up to three days. (1) Faculty members have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.

(2) Bringing any person, thing or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is expressly prohibited.

(3) Faculty members or college administrators have the right to suspend any student from any single class or program, up to three instructional days, if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, program or the learning and teaching environment. The faculty member or college administrator shall report this suspension to the chief student services officer who may set conditions for the student upon return to the class or program.

(4) The student may appeal the classroom suspension to the chief student services officer who may authorize an earlier return by the student only after consultation with the faculty member or appropriate administrator. The chief student services officer's decision is final.

Chapter 132Q-02 WAC**STUDENT ((RULES)) RECORDS**

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-340 ((Immediate summary suspension proceedings not duplicative.)) Definitions. (((1) As indicated in WAC 132Q-02-110, the immediate summary suspension proceeding shall in no way be substituted for the disciplinary proceedings provided for in the rules of student conduct, chapter 132Q-02 WAC. At the end of the suspension, the student suspended shall be reinstated to full rights and privileges as a student, subject to whatever sanctions may have been or may be in the future imposed pursuant to the rules of student conduct or these rules of immediate summary suspension.

(2) Any disciplinary proceeding initiated against the student because of violations alleged against another student in the course of the immediate summary suspension proceeding provided for herein, shall be reexamined; provided, that the records made and evidence presented during the course of any aspect of an immediate summary suspension proceeding brought against the student shall be available for the use of the accused student and of the college in a disciplinary proceeding initiated under the rules of student conduct.)) The definitions in this chapter are those in WAC 132Q-30-105.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-350 Confidentiality of student records. Community Colleges of Spokane ((continually))

receives requests from outside sources for information about students, both past and present. ((College personnel are reminded that)) Public Law 93-380, the Family Educational Rights and Privacy Act (FERPA) of 1974 states that colleges adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in these records. In order to prevent embarrassment or possible legal involvement of ((District 17)) Community Colleges of Spokane and its employees, because of improper disclosure of information, it is imperative that FERPA be implemented in the release of such information.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-360 Education records—Student's right to inspect. (1) A student has the right to inspect and review his/her education records.

(a) For purposes of this section the term "education records" means those records, files, documents, and other materials which contain information directly related to a student, including records regarding the employment of a student when such employment is a result of, and directly related to, student status.

(b) The term "education records" does not include:

(i) Records of instructional, supervisory and administrative personnel and educational personnel which are in the sole possession of the originator and which are not accessible or revealed to any other person except a substitute or designee.

(ii) Records of the campus security department, which are kept apart from those records described in subsection (a) and which are maintained solely for law enforcement purposes are not made available to persons other than law enforcement officials of the same jurisdiction.

(iii) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business, which relate exclusively to such person's employment, are not available for use for any other purpose.

(iv) Student records containing medical/psychological information are not available to anyone other than the individual(s) providing treatment; however, such records may be personally reviewed by a physician or other appropriate professional upon the student's written consent.

(2)(a) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in (b), (c) and (d) of this subsection.

(b) The student may specifically release his or her right to review where the information consists only of confidential recommendations respecting:

(i) Admission to any educational institution; or

(ii) An application for employment; or

(iii) Receipt of an honor or honorary recognition.

(c) A student's waiver of his or her right to access confidential statements shall apply only if:

(i) The student is, upon request, notified of the names of person(s) making confidential statements concerning him or her; and

(ii) Such confidential statements are used solely for the purpose for which they were originally intended; and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the college/instructional unit.

(d) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under (a) of this subsection. Such records shall remain confidential and shall be released only with the consent of the author. The institution shall use these records only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to himself/herself.

(4) The office of the ~~((appropriate vice president))~~ chief student services officer is the official custodian of academic records; and, therefore, is the only office who may issue an official transcript of the student's academic record.

(5) Student educational records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with this section ~~((and WAC 132Q-02-270))~~ be removed or destroyed prior to providing the student access.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-370 Records requests and appeals.

(1) A request by a student for review of information shall be made in writing to the college individual(s) or office(s) having custody of the particular record. Any challenge to the contents of educational records shall be addressed by means of a brief adjudicative proceeding.

(2) An individual(s) or office(s) must respond to a request for education records within a reasonable period of time, but in no case more than forty-five days after the request has been made. A college individual(s) or office(s) which is unable to comply with a student's request within the above-stated time period shall inform the student of that fact and the reason(s) in writing.

(3)(a) A student who feels that his/her request has not been properly answered by a particular individual(s) or office(s) should contact the ~~((appropriate vice president, associate dean, director, assistant dean, or individual(s) or office(s) responsible for mediation))~~ chief student services officer.

(b) In cases where a student ~~((remains))~~ is dissatisfied after consulting with the ~~((appropriate vice president, director, assistant dean or associate dean))~~ chief student services officer, the student may ~~((then request a proceeding by))~~ appeal to the college records committee. ~~((Following the pro-~~

~~ceeding,))~~ The college's records committee shall render its decision within a reasonable period of time. In all cases, the decision of the college's records committee ~~((shall be))~~ is final.

(c) In no case shall any request for review by a student be considered by the college's records committee, which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(d) The college's records committee shall not review any matter regarding the appropriateness of official academic grades.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-380 Release of personally identifiable records. (1) The college shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the following:

(a) College personnel and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally supported or state-supported educational program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parent(s) to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agencies or individual's requesting information in connection with a student's application for or receipt of financial aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than the representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance unless the court or other issuing agency orders the college not to notify the student before compliance with the subpoena. The college president, the president's designee, or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general.

(g) Parents transfer their rights under FERPA to their child when he/she reaches 18 years of age or attends an institution of postsecondary education. Parents of college students, who request to review their "adult child's" record, must provide documented "dependency status" under Internal Revenue Service (IRS) regulations or have written consent from the student. The final decision whether or not to disclose information about students to their parents is a matter of the institution's policy.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

- (a) A specification of the records to be released;
- (b) The reasons for such release; and
- (c) The names of the parties to whom such records will be released.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e) and (f), the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) need not be recorded.

(4) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.

(5) The term "directory information" used in subsection (1) is defined as information contained in an educational record of a student that would not be generally considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended by the student.

~~((3))~~ (6) Students may request in writing that the college not release directory information through written notice to the ~~((appropriate vice president))~~ chief student services officer.

~~((4))~~ (7) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-390 College records. All college individual(s) or office(s) that have custody of education records will develop procedures ~~((in accord with WAC 132Q-02-250 through 132Q-02-300. Any supplementary regulations found necessary by departments))~~ for handling these records. These procedures will be filed with the college's records committee,

which will be responsible for periodic review of ~~((policy and))~~ college and department procedures.

(1) Disciplinary records shall be kept separate from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

(2) No records shall be kept that reflect a student's political or ideological beliefs or associations.

(3) Entities within Community Colleges of Spokane share education records.

(4) Students requesting an official copy of their educational transcripts must provide a written request including name, address, student identification number and where the transcript is to be sent.

(5) A processing fee will be assessed for any official transcript sent to institutions outside the jurisdiction of Community Colleges of Spokane.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-02-400 Records committee. Each college shall have a college records committee ~~((composed of the appropriate vice president or designee, one student, one faculty and one staff member who shall be appointed by the college president no later than October fifteenth of each academic year))~~. The college's records committee shall be responsible for reviewing unusual requests for information, hearing appeals under WAC 132Q-02-370, reviewing college and department records procedures, and for assisting in the interpretation of these rules. ~~((The committee shall also be responsible for hearing appeals as defined in WAC 132Q-02-380.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Q-02-010	Definitions.
WAC 132Q-02-020	Purpose for adoption of student rules.
WAC 132Q-02-030	Jurisdiction.
WAC 132Q-02-040	Student misconduct.
WAC 132Q-02-050	Academic dishonesty.
WAC 132Q-02-060	Classroom conduct/learning environment.
WAC 132Q-02-070	Authority to suspend.
WAC 132Q-02-080	Conduct at college functions.
WAC 132Q-02-090	Other punishable acts.
WAC 132Q-02-100	Hazing.
WAC 132Q-02-110	Disciplinary actions.

WAC 132Q-02-120	Delegation of disciplinary authority.	WAC 132Q-02-440	Brief adjudicative procedure—Athletics.
WAC 132Q-02-130	Due process.	WAC 132Q-02-450	Brief adjudicative decision—Athletics.
WAC 132Q-02-140	Initiation of disciplinary action.		
WAC 132Q-02-150	Composition of college disciplinary committee.		
WAC 132Q-02-160	Evidence admissible in proceedings.		
WAC 132Q-02-170	Appeal of disciplinary actions.		
WAC 132Q-02-180	Reporting, recording and maintenance of disciplinary records.		
WAC 132Q-02-190	Initial college disciplinary proceedings.		
WAC 132Q-02-200	College disciplinary committee proceedings.		
WAC 132Q-02-210	Conduct at disciplinary proceedings.		
WAC 132Q-02-220	Decision of the college disciplinary committee.		
WAC 132Q-02-230	Appeal proceedings.		
WAC 132Q-02-240	Readmission after suspension.		
WAC 132Q-02-250	Emergency authority of the college president.		
WAC 132Q-02-260	Purpose of immediate summary suspension rules.		
WAC 132Q-02-270	Initiation of immediate summary suspension proceedings.		
WAC 132Q-02-280	Notice of immediate summary suspension proceedings.		
WAC 132Q-02-290	Procedures of immediate summary suspension proceedings.		
WAC 132Q-02-300	Decision by vice-president.		
WAC 132Q-02-310	Notice of immediate summary suspension.		
WAC 132Q-02-320	Failure to appear.		
WAC 132Q-02-330	Appeal of immediate summary suspension.		
WAC 132Q-02-420	Grounds for athletic ineligibility.		
WAC 132Q-02-430	Right to brief adjudicative procedure—Athletics.		

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-07-010 Authority to demand identification. (1) For the purpose of determining whether probable cause exists for application of any section of (~~the *Student Rights and Responsibilities*~~) chapter 132Q-30 WAC to any conduct by any person on a college facility, any faculty or other college personnel of Community Colleges of Spokane may demand that any person on college facilities produce evidence of student enrollment at the college, by tender of said person's student identification card.

(2) Refusal by a student to produce a student identification card, as required by subsection (1) of this section, shall be cause for disciplinary action under chapter 132Q-30 WAC.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-07-020 Right of assembly. (1) Students shall have the right of "assembly" (~~as defined in WAC 132Q-02-010~~) upon college facilities that are generally available to the public. Such assembly shall:

(a) Be conducted in an orderly manner; and

(b) Not unreasonably interfere with vehicular or pedestrian traffic; or

(c) Not unreasonably interfere with classes, schedules, meetings or ceremonies, or with educational functions of the college; and

(d) Not unreasonably interfere with college functions.

(2) A student who conducts or participates in an assembly that violates any provision of this section shall be subject to disciplinary action under chapter 132Q-30 WAC.

(3) Nonstudents who participate in, aid or abet any assembly or assemblies in violation of this section shall be subject to possible prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college. Faculty and other college personnel who participate in, aid or abet any assembly or assemblies in violation of this section shall be subject to appropriate discipline.

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

WAC 132Q-07-030 Outside speakers. (1) Any recognized campus student organization may invite speakers on campus with the written approval of its advisor, subject to (~~other restrictions imposed in this WAC and to the legal restraints imposed by the laws of the United States and the state of Washington~~) provisions of this section.

(2) The appearance of an invited speaker on a campus does not represent an endorsement, either implicit or explicit, of views or opinions of the speaker by (~~the college~~) CCS, its

students, its faculty, its college personnel, its administration or its board.

(3) The scheduling of speakers shall be made through the facilities scheduling office of the campus at which the speaker will appear, with prior approval from the appropriate college student activities office.

(4) The appropriate student activities office will be notified at least thirty days prior to the appearance of an invited speaker, at which time a personal services contract (available in the student activities office) must be completed with all particulars regarding speaker, time, place, etc., signed by the sponsoring organization's advisor, and filed with the student activities office. Exceptions to the thirty-day ruling may be made by the appropriate administrator.

(5) The appropriate student activities office may require a question period or arrange to have views other than those of the invited speakers represented at the meeting, or at a subsequent meeting.

WSR 07-10-043
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 26, 2007, 8:35 a.m., effective May 27, 2007]

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

Purpose: The department is amending WAC 388-473-0040 Food for service animals as an ongoing additional requirement. This rule change is necessary to make the definition of service animals within ongoing additional requirements consistent with the definition in the Washington law against discrimination.

Citation of Existing Rules Affected by this Order: Amending WAC 388-473-0040.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 49.60.040.

Adopted under notice filed as WSR 07-06-069 on March 6, 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 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 25, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-15-053, filed 7/17/00, effective 9/1/00)

WAC 388-473-0040 Food for service animals as an ongoing additional requirement. (1) A "service animal" is ~~((one that has been trained at a recognized school or training facility to provide you with assistance that is necessary for your health and safety, and that supports your ability to continue to live independently))~~ an animal that is trained for the purpose of assisting or accommodating a person with a disability's sensory, mental, or physical disability.

(2) We authorize benefits for food for a service animal if we decide the animal ~~((assists you in your daily living as described in WAC 388-473-0040(1)))~~ is necessary for your health and safety and supports your ability to continue to live independently.

WSR 07-10-056
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed April 27, 2007, 9:44 a.m. effective May 28, 2007]

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

Purpose: WAC 458-20-167 explains the application of the business and occupation (B&O), retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also includes tax guidance for nursery schools, preschools, and child care. The rule has been amended to reflect the updated definition of "computer" and to cite the applicable statute. Language referencing a 1998 law change and providing pre-1998 tax reporting instructions has been removed.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools.

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

Adopted under notice filed as WSR 07-05-047 on February 16, 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 1, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: April 27, 2007.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending WSR 99-03-005, filed 1/7/99, effective 2/7/99)

WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools. (1)

Introduction. This section explains the application of Washington's business and occupation (B&O), retail sales, and use taxes to educational institutions, school districts, student organizations, and private schools. It also gives tax reporting information to persons operating nursery schools, preschools, or providing child care. Educational institutions which are institutions of the state of Washington should also refer to WAC 458-20-189 (Sales to and by the state of Washington, etc.). Nonprofit organizations should also refer to WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops).

(2) **Definitions.** For the purposes of this section, the following definitions apply:

(a) The term "tuition fees" includes fees for instruction, library, laboratory, and health services. The term also includes special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students, teachers, or other staff of the institution. RCW 82.04.170.

(b) "Educational institutions" means the following:

(i) Institutions which are established, operated, and governed by this state or its political subdivisions under Title 28A (Common school provisions), 28B (Higher education), or 28C (Vocational education) RCW.

(ii) Nonpublic schools, including parochial or independent schools or school districts, carrying out a program for any or all of the grades one through twelve, which have been approved by the Washington state board of education. (See also chapter 180-90 WAC.)

(iii) Degree-granting institutions offering educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree or certificate beyond the secondary level, provided the institution is accredited by an accrediting association recognized by the United States Secretary of Education and offers to students an educational program of a general academic nature. Degree-granting institutions should refer to chapter 28B.85 RCW for information about the requirement for authorization by the Washington higher education coordinating board.

(iv) Institutions which are not operated for profit, and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture.

(v) Programs that an educational institution cosponsors with a nonprofit organization, as defined by the Internal Revenue Code Sec. 501 (c)(3), provided that educational institution grants college credit for course work successfully completed through the educational program.

(vi) Certain branch campuses of foreign degree-granting institutions, provided the following requirements, among others, are satisfied:

(A) The branch campus must be owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member;

(B) Courses must be provided solely and exclusively to students enrolled in a degree-granting program offered by the institution;

(C) The branch campus must be approved by the Washington higher education coordinating board to operate in this state; and

(D) The branch campus must be recognized to be exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c).

(vii) "Educational institutions" does not include any entity defined as a "private vocational school" under (~~chapter 28C.10~~) RCW 28C.10.020 and/or any entity defined as a "degree-granting private vocational school" under chapters 28C.10 and 28B.85 RCW (other than those described in (b)(iv) of this subsection).

(c) "Private schools" means all schools and institutions which are excluded from the above definition of "educational institutions." For example, an elementary school operated by a church organization is a "private school" if the school is not approved. It will be given the tax treatment of an "educational institution" for purposes of this section only if it has obtained approval from the Washington state board of education.

(3) **Business and occupation tax.** Departments and institutions of the state of Washington are not subject to the B&O tax. (See WAC 458-20-189.) School districts are also not subject to the B&O tax, except as to income derived from a public utility or enterprise activity. RCW 82.04.419. Private schools, student organizations, school districts engaging in utility or enterprise activities, and educational institutions which are not departments or institutions of the state of Washington are subject to the B&O tax as follows:

(a) **Service and other business activities.** The service B&O tax applies to the following nonexclusive list of activities or sources of income:

(i) Tuition fees received by private schools. However, educational institutions, as defined above, may deduct amounts derived from tuition fees. RCW 82.04.4282.

(ii) Rental of conference facilities to various organizations or groups.

(iii) Rental by private schools of dormitories or other student lodging facilities which are not generally available to the public and where the student does not have an absolute right of control and occupancy. (See WAC 458-20-118.) However, educational institutions may deduct the income from charges for lodging made to students. These amounts are defined by law as being tuition.

(iv) Amounts received by private schools for providing meals to students where the meals are provided exclusively for students, teachers, staff, and their guests. However, refer to the comments under retailing for the taxability of meals sold to guests of students. Income from providing meals to students by educational institutions is deductible.

(v) Amounts received from owners of coin operated vending machines or amusement devices for allowing the placement of those machines on the premises of the school. (Refer also to WAC 458-20-187.)

(b) **Retailing.** Activities and sources of income subject to the retailing B&O tax include, but are not limited to, the following:

(i) Sales of tangible personal property or services classified as retail sales. This includes sales of books and supplies to students where these materials are not supplied as part of the tuition charge. Sales of academic transcripts are exempt from tax. RCW 82.04.399.

(ii) Sales of meals to guests of students.

(iii) Sales of meals or prepared foods in facilities which are generally open to the public, including those sold to students. (See also WAC 458-20-119.)

(4) **Retail sales tax.** The retail sales tax applies to all retail sales including, but not limited to, those identified in subsection (3) of this section, unless a specific statutory exemption applies.

(a) Educational institutions, school districts, student organizations, and private schools, including departments or institutions of the state of Washington, are required to collect the retail sales tax on sales of tangible personal property and retail services to consumers, even though such sales may be exempt from the retailing B&O tax. Retail sales tax exemptions are provided for sales of academic transcripts (RCW ((82-08-2537)) 82.08.02537) and certain food products (RCW 82.08.0293 and 82.08.0297, and WAC 458-20-244).

(b) Amounts derived from charges between departments or institutions of the state of Washington, or between departments of the same entity, constitute interdepartmental charges and are not subject to the retailing or retail sales tax. (See WAC 458-20-201 and 458-20-189.)

(c) Persons selling merchandise through vending machines should refer to WAC 458-20-187.

(5) **Deferred sales or use tax.** Educational institutions, school districts, student organizations, and private schools are required to report the deferred sales or use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid, unless a specific statutory exemption applies. If items are purchased for dual purposes (i.e., for both consumption and resale), a tax paid at source deduction may be claimed for the cost of the articles resold upon which retail sales tax was previously paid. (See WAC 458-20-102.)

(a) These organizations are the consumers of food or beverage products which are ingredients of meals that are furnished to students and faculty. However, certain food products are exempt from the retail sales and/or use tax. RCW 82.12.0293 and 82.12.0297, and WAC 458-20-244.

(b) Use tax exemptions are also provided for the following:

(i) Academic transcripts. RCW 82.12.0347.

(ii) Computers, computer components, computer accessories, or computer software irrevocably donated to any public or private nonprofit school or college in this state, as defined by chapter ((82-36)) 84.36 RCW. For the purposes of this exemption, RCW ((82-12-0284)) 82.04.215 defines "computer" as ((a data processor that can perform substantial

computation, including numerous arithmetic or logic operations, without intervention by a human operator)) an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. RCW 82.12.0284. This exemption is available to both the donor and the private nonprofit school or college receiving the donation.

(iii) Tangible personal property donated to a nonprofit charitable organization or state or local governmental entity((~~RCW 82.12.02595. Prior to June 11, 1998, this exemption is available only to the nonprofit charitable organization or state or local governmental entity receiving the donation. On and after June 11, 1998, the following are also exempt from the use tax:~~

~~(A)) including the subsequent use of the property by a person to whom the property is donated or bailed by the nonprofit charitable organization, or state or local governmental entity, if used to further the purpose of that organization(;~~

~~((B)) (iv) The donation of tangible personal property without intervening use to a nonprofit charitable organization, or the incorporation of tangible personal property without intervening use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating the real or personal property for no charge. ((Chapter 182, Laws of 1998.)) RCW 82.12.02595.~~

~~((iv)) (v) Motor vehicles equipped with dual controls loaned to and exclusively used by a school in connection with the school's driver training program. This exemption is available to both the donor and the school receiving the donation. For the purposes of this exemption, RCW 82.12.0264 limits the term "school" to:~~

~~(A) The University of Washington, Washington State University, the regional universities, The Evergreen State College, and the state community colleges;~~

~~(B) Any public, private, or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station); or~~

~~(C) Any public vocational school meeting the standards, courses, and requirements established and prescribed or approved in accordance with the Community College Act of 1967.~~

~~(6) Nursery schools, preschools, child care providers, privately operated kindergartens, and persons monitoring home child care facilities.~~ Income received by nursery schools, preschools, child care providers, and privately operated kindergartens for the care or education of children who are under eight years of age and not enrolled in or above the first grade is exempt from the B&O tax. RCW 82.04.4282. Such persons are, however, subject to B&O tax upon the gross proceeds derived from providing child care to children who are eight years of age or older or enrolled in or above the first grade.

~~((Effective July 1, 1998.))~~ Persons providing child care for periods of less than twenty-four hours are subject to tax under the child care B&O classification. RCW 82.04.2905. The service and other activities B&O tax classification ~~((applied to these services prior to July 1, 1998, and continues to apply))~~ applies to child care services provided for periods

in excess of twenty-four hours. Nursery schools, preschools, and child care providers receiving both taxable and exempt income must properly segregate such income in their books of account.

(a) The B&O tax does not apply to income derived by a church for the care of children of any age for periods of less than twenty-four hours, provided the church is exempt from property tax under RCW 84.36.020. RCW 82.04.339.

(b) Persons who monitor home child care facilities under one or more federal nutrition programs are required to register with the department and are taxable on their gross income under the service and other classification of the B&O tax. These monitors contract with, and are accountable to the superintendent of public instruction which receives funds from the United States Department of Agriculture and disburses funds to each monitor. Commonly, a portion of the funds received by the monitor is required by law to be passed directly to the home child care facilities for the provision of qualifying meals. That portion of the funds received by the monitor may be taken as a "reimbursement" deduction on the monitor's ((~~combined~~)) excise tax return, so that the monitor is subject to B&O tax only on the portion of funds retained for the rendering of services.

(7) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(a) MN University is an educational institution created by the state of Washington. MN University operates a book store at which it sells text books, school supplies, and apparel to students and nonstudents. As an institution of the state of Washington, MN University is exempt from the B&O tax with respect to all sales, irrespective that sales are made to nonstudents. However, MN is required to collect and remit retail sales tax on its gross proceeds of sales made through its book store.

(b) DMG College is a degree-granting institution accredited by an accrediting association recognized by the United States Secretary of Education. DMG College is an educational institution operated by a church. DMG makes charges to its students for tuition, meals, and lodging. It also receives income for occasionally providing lodging and meals to guests of its students during the year. DMG also rents its conference and dormitory facilities to various groups during the summer, providing cafeteria services when needed. The income from tuition, meals, and lodging received from the students is exempt of B&O and retail sales tax because this entity comes within the definition of an educational institution. DMG must report the retailing B&O tax and collect and remit retail sales tax upon the gross proceeds derived from the sales of meals and prepared foods to the conference attendees and guests. The income derived from the rental of the conference and dormitory facilities to various groups and student guests is subject to the service B&O tax. The college is not considered as holding itself out for the sale of lodging to the general public.

(c) JB College is an educational institution which is not a department or institution of the state of Washington. JB College has converted five housing units from student use for use

by nonstudents. Guests of the administration use these units for stays of two or three days, and are charged a specific amount per night. The college provides linen, towels, etc., to the users. These units are always rented for periods under thirty days. JB College must report this rental income under the retailing B&O tax and collect and remit retail sales tax. This income is not derived from the occasional rental of student lodging facilities, but is derived from the rental of accommodations specifically maintained for public use.

(d) Jane Doe operates a private preschool and kindergarten, providing care and elementary education for children. She also provides after hours child care. Jane Doe may claim a deduction for the income received for the care and education of children under eight years old and not enrolled in or above the first grade, provided this income is properly segregated in her books of account. The income attributable to the care of children at or above the first grade level, i.e., eight years old or enrolled in or above the first grade, is subject to the child care B&O tax. Jane Doe may be able to reduce or eliminate any child care B&O tax liability if she qualifies for the small business B&O tax credit. RCW 82.04.4451 and WAC 458-20-104.

WSR 07-10-064

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed April 30, 2007, 9:39 a.m., effective May 31, 2007]

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

Purpose: To update existing language with current Federal Motor Vehicle Safety Standards (FMVSS) 108 and add clarifying language in other sections. The amendments are a result of reviewing the WAC with current FMVSS.

Citation of Existing Rules Affected by this Order: Amending WAC 204-10-020.

Statutory Authority for Adoption: RCW 46.37.005.

Adopted under notice filed as WSR 06-24-047 on December 1, 2006.

Changes Other than Editing from Proposed to Adopted Version: Due to comments received a proposed amendment referring to the use of novelty lighting was removed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: April 30, 2007.

Paul S. Beckley
for John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 99-18-027, filed 8/24/99, effective 9/24/99)

WAC 204-10-020 Lighting devices. Aftermarket neon lighting devices may not be used on motor vehicles while they are in motion on public roadways.

(1) Federal Motor Vehicle Safety Standard (FMVSS) 108 and Society of Automotive Engineers (SAE) J 578 are hereby adopted by references as the standards for the following aftermarket lighting devices:

- (a) Headlamps
- (b) Taillamps
- (c) Stoplamps
- (d) License plate lamps
- (e) Turn signal lamps
- (f) Side marker lamps
- (g) Intermediate side marker lamps
- (h) Backup lamps
- (i) Identification lamps
- (j) Clearance lamps
- (k) Parking lamps
- (l) Reflex reflectors
- (m) Intermediate reflex reflectors
- (n) Intermediate side reflex reflectors
- (o) Intermediate side marker reflectors
- (p) Turn signal operating units
- (q) Turn signal flashers
- (r) Vehicular hazard warning signal operating units
- (s) Vehicular hazard warning signal flashers
- (t) Motorcycle headlamps
- (u) Center high mounted/third brake light

(2) Society of Automotive Engineers standards are hereby adopted by reference as the standard for the following lighting devices:

- (a) Fog lamps (SAE J583), aftermarket fog lamps shall be white to amber only
- (b) Fog tail lamps (SAE J1319)
- (c) Auxiliary driving lamps (SAE J581), shall be white only and are not intended to be used alone or with the lower beam of a standard headlamp system
- (d) ~~((Auxiliary low beam lamps (or auxiliary passing lamps) (SAE J582)~~
- ~~((e))~~) Spot lamps (SAE J591)
- ~~((f))~~) ~~((e))~~ Cornering lamps (SAE J852)
- ~~((g))~~) ~~((f))~~ Supplemental high-mounted stop and rear turn signal lamps (SAE J1957 and J2068)
- ~~((h))~~) ~~((g))~~ Side turn signal lamps (SAE J914)
- ~~((i))~~) ~~((h))~~ 360 degree emergency warning lamps (SAE J845)
- ~~((j))~~) ~~((i))~~ Flashing warning lamps for agricultural equipment (SAE J974)
- ~~((k))~~) ~~((j))~~ Flashing warning lamps for authorized emergency, maintenance, and service vehicles (SAE J595)
- ~~((l))~~) ~~((k))~~ Flashing warning lamp for industrial equipment (SAE J96)

~~((m))~~ ~~Warning lamp alternating flashers (J1054)~~

~~((n))~~) ~~((l))~~ Green lamp for use on volunteer fireman's private vehicle (SAE J595) - flashing warning lamps for authorized emergency, maintenance, and service vehicles.

~~((o))~~) ~~((m))~~ Color of the lens shall be green as that color is described in SAE Standard J578 (Color specifications for electric signal lighting devices) rather than red or amber as specified in SAE J595.

~~((p))~~) ~~((n))~~ Side cowl, fender, or running board courtesy lamps (SAE J575)

(3) Standards promulgated by the commission on equipment for the following lighting devices shall be as set forth in the Washington Administrative Code chapters as indicated:

- (a) Deceleration alert lamp system (chapter 204-62 WAC)
- (b) Headlamp modulator (chapter 204-78 WAC)
- (c) Headlamp flashing system (chapter 204-80 WAC)
- (d) School bus warning lamps (chapter ~~((204-74))~~) 204-74A WAC)

(e) Additional hazard strobe lamp. Municipal transit vehicles (as defined in RCW 46.04.355) may be equipped with a single additional hazard strobe lamp. Such lamps must meet the Class I requirements of SAE Standard J1318

(i) A clear lens strobe lamp, less than eight inches in height, may be mounted on the centerline of the roof in the rear one-half of the bus

(ii) The hazard strobe lamp will be activated by a switch independent of all other lamp switches. The hazard strobe lamp switch shall be plainly labeled and have a pilot lamp that shall indicate when the lamp is in operation

(iii) The use of a hazard strobe lamp is permitted only when the bus is occupied with passengers and one or more of the following conditions exist:

(A) The bus is in motion in inclement, sight obscuring conditions, including, but not limited to rain, fog, snow, and smoke;

(B) There is a need to improve the visibility of the bus when stopping, standing, or starting onto a highway or there is limited visibility caused by geographic hazards, such as winding roadways, hills, trees, etc.

The strobe lamp shall not be activated solely because of darkness.

WSR 07-10-071

PERMANENT RULES

CONSERVATION COMMISSION

[Filed May 1, 2007, 8:37 a.m., effective June 1, 2007]

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

Purpose: It is the intent of the conservation commission to interpret and clarify RCW 89.08.400 in this rule in order to assist conservation districts and county legislative authorities in their efforts to develop and impose a system of assessments for the conservation of renewable natural resources. The conservation commission believes the interpretations and clarifications provided in the proposed rule will increase confidence of all parties, resulting in more conservation districts and county legislative authorities choosing to implement this local funding mechanism. The proposed rule is

intended to increase public involvement in conservation district program planning, special assessments, and the funding of conservation activities and programs most needed and desired by local communities.

Statutory Authority for Adoption: RCW 89.08.040 and [89.08.]070.

Adopted under notice filed as WSR 07-05-087 on February 21, 2007.

Changes Other than Editing from Proposed to Adopted Version: The conservation commission made several changes to this interpretive rule following publication of the proposed rule language. These changes are not substantial and consist of small changes in wording for clarification. WAC 135-100-020, 135-100-030, 135-100-060, 135-100-070, 135-100-090, 135-100-100, 135-100-110, 135-100-130, 135-100-140, 135-100-160, 135-100-230, and 135-100-240.

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 25, 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: April 30, 2007.

Mark A. Clark
Executive Director

Chapter 135-100 WAC

SPECIAL ASSESSMENTS FOR NATURAL RESOURCE CONSERVATION

NEW SECTION

WAC 135-100-010 Purpose of this rule. It is the intent of the conservation commission to interpret and clarify RCW 89.08.400 in this rule in order to assist conservation districts and county legislative authorities in their efforts to develop and impose a system of assessments for the conservation of renewable natural resources.

NEW SECTION

WAC 135-100-020 Definitions. "Authorized conservation program" and "conservation program" mean the renewable resources program defined in RCW 89.08.220(7) which includes a comprehensive long-range plan and a supplemental annual work plan.

"Renewable natural resources" or "natural resources" includes land, air, water, vegetation, fish, wild-

life, wild rivers, wilderness, natural beauty, scenery, and open space.

"Special benefits to lands" means tangible improvements to renewable natural resources. "Special benefits to lands" can also mean intangible improvements to renewable natural resources from conservation programs and activities, including, but not limited to, education and outreach activities and programs that result, directly or indirectly, in improvements to renewable natural resources, or other intangible benefits that accrue to lands. "Special benefits to lands" does not necessarily mean that appraised property values are improved or altered as a result of the activities and programs funded by the special assessment.

"System of assessments" means:

(1) A classification or categorization of lands according to the benefits conferred, or to be conferred, by the conservation district's authorized conservation program;

(2) An annual rate of assessment for each land classification;

(3) A total amount of assessments that will be collected from each land classification; and

(4) The duration of the assessment.

The system of assessments does not include a budget or intended allocation of funds to be derived from the special assessment.

NEW SECTION

WAC 135-100-030 Purpose and use of assessments.

The purpose of conservation district special assessments is to help conservation districts implement their authorized conservation program, which includes a comprehensive long-range plan and a supplemental annual work plan.

Funds generated by special assessments for natural resource conservation must be used to benefit lands assessed.

NEW SECTION

WAC 135-100-040 County has authority to impose assessment. The county legislative authority has sole authority to impose a special assessment for natural resource conservation on lands within the conservation district and within the boundaries of the county.

When more than one conservation district occurs in a county, special assessments for natural resource conservation need not be imposed for all of the conservation districts in the county.

When one conservation district exists in more than one county, special assessments for natural resource conservation need not be imposed by all counties.

NEW SECTION

WAC 135-100-050 System of assessments. The conservation district develops a system of assessments that classifies all lands in the conservation district into classifications or categories according to benefits conferred, or to be conferred, through the authorized conservation program of the conservation district.

The conservation district must also classify lands which will not benefit from the authorized conservation program.

The system of assessments cannot exempt lands based on taxpayer characteristics such as age or income level.

NEW SECTION

WAC 135-100-060 Term of assessment. The minimum term of a special assessment for natural resource conservation is one year. The maximum term is ten years. Conservation district special assessments can be renewed subject to WAC 135-100-250. The term length must be found to adequately serve the public interest as determined by the county legislative authority as required by WAC 135-100-150.

NEW SECTION

WAC 135-100-070 Public lands may be assessed. Two kinds of public lands are subject to the special assessment: Lands owned by local governments, and lands owned by the state.

Public lands owned by local governmental entities are subject to the special assessment if such lands will receive special benefits from the district's authorized conservation program.

Public lands owned by state governmental entities are subject to the special assessment if such lands will receive special benefits from the district's authorized conservation program. In addition, the county legislative authority must follow the requirements described in chapter 79.44 RCW when assessing such lands. The conservation district may provide such assistance as needed for the county legislative authority to comply with chapter 79.44 RCW.

If public lands will not benefit from the conservation district's conservation program, they must be identified in the system of assessments as a class of land not receiving special benefits.

NEW SECTION

WAC 135-100-080 Assessment rates. Assessment rates must be based on the special benefits to be conferred to natural resources by the district's authorized conservation program.

The conservation district must determine an annual per-acre rate of assessment for each class of land. The conservation district must calculate the total amount of special assessments proposed to be collected for each class of lands.

Lands not benefited by the conservation district's conservation program must be classified separately and must not be subject to the special assessment.

For each classification of land to receive special benefits, the annual assessment rate must be either:

- (1) A uniform per-acre amount; or
- (2) A uniform per-acre amount plus an annual flat rate per parcel.

The uniform per-acre amount must be greater than zero cents per acre and cannot exceed ten cents per acre.

The maximum annual per-parcel rate is five dollars, except for counties with a population of over one million five hundred thousand persons where the maximum annual per-parcel rate cannot exceed ten dollars.

NEW SECTION

WAC 135-100-090 Forest lands may be assessed at special rates. Some forest lands, referred to as qualified forest lands, may be subject to a special rate of assessment. Qualified forest lands are parcels used only for the planting, growing, or harvesting of trees. Such lands qualify for special rates of assessment.

Forest lands used for purposes other than, or in addition to, the planting, growing, or harvesting of trees do not qualify for special rates of assessment.

For qualified forest lands, no per-parcel assessment shall be charged. In lieu of a per-parcel charge, each owner of more than one parcel of qualified forest lands may be charged up to three dollars a year if their forest lands will benefit from the conservation district's conservation program.

The per-acre rate of special assessments for qualified forest lands may not exceed one-tenth the weighted average per-acre assessment of all other assessed lands in the district. The weighted average is calculated by dividing the total assessment to be collected from all lands except qualified forest lands by the total acreage of all lands except qualified forest lands.

Only the first ten thousand acres of qualified forest lands owned by the same person or entity may be assessed. Additional acres beyond the first ten thousand acres must be identified in the system of assessments as a class of land exempt from assessment.

NEW SECTION

WAC 135-100-100 Special notice requirements for public hearings. RCW 89.08.400(2) imposes additional public notice requirements for special assessment public hearings. In addition to notice requirements imposed by the Open Public Meetings Act, the conservation district and county legislative authority must also comply with notice requirements for public hearings described in RCW 89.08.400(2).

NEW SECTION

WAC 135-100-110 Conservation district public hearing before August 1. The supervisors of a conservation district must hold at least one public hearing on the system of assessments being proposed by the district. The hearing or hearings must occur before the first day of August in the calendar year prior to the year the proposed assessments will be collected.

Public hearings may be held as part of regular or special meetings of the conservation district board of supervisors. Such hearings must have a specified start and end time for the board to receive public comment.

The conservation district should make reasonable efforts to educate affected landowners about the costs and benefits of the special assessment well in advance of the conservation district formal public hearing(s).

NEW SECTION

WAC 135-100-120 Conservation district proposal and budget filed with county. On or before the first day of

August in the calendar year before the assessment will be collected, the conservation district must file the proposed system of assessments with the county legislative authority. The conservation district must also provide to the county legislative authority a proposed budget for the first year the assessment will be collected.

Filing means the county legislative authority, or its authorized representative such as the county auditor or clerk, has physically received the proposed system of assessments and the proposed budget by the close of business on or before the first day of August. Along with the proposed system of assessments and proposed budget, a copy of the resolution passed by the conservation district board of supervisors is to be provided to the county asking the county legislative authority to impose a special assessment for natural resource conservation consistent with RCW 89.08.400 and this rule.

NEW SECTION

WAC 135-100-130 County public hearing after receiving proposal. After the county legislative authority has received the proposed system of assessments and proposed budget from the conservation district, the county must hold at least one public hearing on the proposed system of assessments as filed by the conservation district with the county legislative authority.

NEW SECTION

WAC 135-100-140 County may modify proposed system after public hearing. After the county's public hearing, and before the county legislative authority takes final action on the conservation district request to impose a special assessment, the county legislative authority may modify or amend the proposed system of assessments. The conservation district may provide such assistance as needed for the county legislative authority to modify or amend the proposed system of assessments. The county legislative authority may not modify a conservation district's proposed budget or alter the intended allocation of special assessment funds.

NEW SECTION

WAC 135-100-150 County imposes system of assessments. To impose the proposed or modified system of assessments, the county legislative authority must find:

- (1) That the proposed system will serve the public interest; and
- (2) That the special benefits to lands provided by the assessment will meet or exceed the amount to be assessed.

This does not necessarily mean appraised property values are improved or altered through the authorized conservation program of the district.

NEW SECTION

WAC 135-100-160 Conservation district may withdraw assessment. The conservation district, through official action of the conservation district board of supervisors, may withdraw the proposed system of assessments at any time

before a county legislative authority takes final action on the proposed system of assessments.

NEW SECTION

WAC 135-100-170 Conservation district may alter assessment on parcels. The conservation district may alter assessments on individual parcels at any time if land uses change that would affect the classification of such parcels. The conservation district must notify the county assessor of any changes that affect the classification of parcels to be assessed.

If the county assessor seeks to change the classification of individual parcels, the conservation district must approve such changes before collecting the assessment for such parcels.

NEW SECTION

WAC 135-100-180 Conservation district prepares assessment roll. After the county legislative authority authorizes special assessments for natural resource conservation, the conservation district must prepare an assessment roll to implement the approved system of assessments. The conservation district should seek assistance from the county assessor in preparing the assessment roll.

NEW SECTION

WAC 135-100-190 County assessor applies assessment to tax rolls. The county assessor will apply the classifications and rates in the conservation district's system of assessments to lands to be assessed.

NEW SECTION

WAC 135-100-200 County treasurer collects assessments. Special assessments will be collected by the county treasurer and accounted for with property taxes. Collection of special assessments starts in the calendar year following the county legislative authority's action approving the special assessment.

NEW SECTION

WAC 135-100-210 County can recover actual costs. The county treasurer may recover the actual costs incurred by the county assessor and county treasurer in spreading and collecting the special assessments. Upon request, the county treasurer must explain the basis for cost recovery charges made against the assessment.

NEW SECTION

WAC 135-100-220 Conservation district to receive all remaining funds. All funds collected, minus the actual cost of spreading and collecting the assessment, must be promptly transferred to the conservation district. For conservation districts that use the county treasurer as the district treasurer per RCW 89.08.215, assessment funds collected (minus actual costs) must be accounted for separately.

NEW SECTION

WAC 135-100-230 Conservation district to inform landowners. The conservation district should make reasonable efforts to inform landowners with lands to be assessed how their assessment was calculated.

NEW SECTION

WAC 135-100-240 Landowners may petition the county to object. Landowners with lands to be subject to the special assessments may object to the assessment by petitioning the county legislative authority. The petition must be signed by at least twenty percent of the owners of land that would be subject to the special assessments.

The petition must be filed with the county legislative authority on or before the close of business on the fourteenth day of December in the year the county approves the special assessment.

If a petition meeting these requirements is filed, the county may not spread or collect the assessment in the following year, and may not spread or collect the assessment until the county legislative authority acts upon the petition.

NEW SECTION

WAC 135-100-250 Renewal of assessment. Renewal of a conservation district special assessment must meet the same requirements as for a newly proposed assessment.

WSR 07-10-082
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 1, 2007, 1:44 p.m., effective July 1, 2007]

Effective Date of Rule: July 1, 2007.

Purpose: Medical aid rules—Conversion factors and maximum daily fees, WAC 296-20-135, 296-23-220, and 296-23-230, medical aid updates regarding rate setting for most professional health care services for injured workers. Rule changes are necessary to update our payment rates for health care services, which are published annually in the medical aid rules and fee schedules.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 07-05-070 on February 20, 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 3, Repealed 0.

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

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

Date Adopted: May 1, 2007.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 06-09-071, filed 4/18/06, effective 7/1/06)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. In addition, physician assistants may order physical therapy under these rules for the attending doctor. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$109.92)~~) \$113.84 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of

improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 06-09-071, filed 4/18/06, effective 7/1/06)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. In addition, physician assistants may order occupational therapy under these rules for the attending doctor. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor or by the physician assistant.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-

20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$109.92)~~) \$113.84 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 06-09-071, filed 4/18/06, effective 7/1/06)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$54.22)~~) \$56.38. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.97)~~) \$3.08 per minute, which is equivalent to (~~(\$44.55)~~) \$46.20 per 15 minutes. The base units and payment policies can be found in the fee schedules.

WSR 07-10-086

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 1, 2007, 2:13 p.m., effective June 1, 2007]

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

Purpose: This rule-making order establishes rules for the disposal of livestock that have died from disease or an unknown cause.

Statutory Authority for Adoption: RCW 16.36.010 and 16.36.092.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-09-011 on April 6, 2007.

Changes Other than Editing from Proposed to Adopted Version: (1) WAC 16-25-025: Changed "disposal within 72 hours" to "disposal within 72 hours of the time of death or discovery."

(2) WAC 16-25-025 (1)(iii): Changed "fifty feet from any property line" to "fifty feet from any property line between parcels under different ownership."

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 6, 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 6, Amended 0, Repealed 0.

Date Adopted: May 1, 2007.

Valoria H. Loveland
Director

Chapter 16-25 WAC

DISPOSAL OF DEAD LIVESTOCK

NEW SECTION

WAC 16-25-010 Purpose. The purpose of this rule is to prevent the transmission of livestock diseases and to protect the public health, safety, and welfare and Washington state's livestock industry through the proper routine disposal of carcasses of livestock that have died because of disease. The statutory authority for the rule is found in RCW 16.36.010 and 16.36.092.

NEW SECTION

WAC 16-25-015 Applicability. This rule applies to the disposal of livestock that has died because of disease or an unknown cause.

NEW SECTION

WAC 16-25-020 Definitions. In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Burial" means placing a carcass below the natural surface of the ground and completely covering it with soil.

"Carcass" means the body or tissues of a livestock animal that has died or has been killed other than by slaughter for human or animal consumption or commercial use.

"Composting" means the aerobic decomposition of organic matter under controlled conditions.

"Death from disease" means livestock that has died from a disease or an unknown cause.

"Emergency disposal" means disposal of carcasses ordered depopulated by the director or depopulated as a result of a reportable disease listed in WAC 16-70-010.

"Incineration" means the controlled and monitored combustion of carcasses for the purposes of volume reduction and pathogen control as approved by the department of ecology or local air pollution control authorities.

"Landfill" means a permitted facility, whether on-site or off-site, where solid waste is permanently placed in or on land, in accordance with chapter 70.95 RCW and chapters 173-350 and 173-351 WAC.

"Livestock" means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species so designated by statute. This term does not include free ranging wildlife as defined in Title 77 RCW.

"Natural decomposition" means decomposition of carcasses through natural decay processes on the surface of the ground without cover material.

"Open burning" means the act of consuming or destroying a carcass by fire with or without the use of an accelerant.

"Rangeland" means a large open area for grazing of livestock in excess of one hundred sixty acres of contiguous usable grazing or timberland.

"Rendering" means the practice of using heat to convert dead animal carcasses and animal by-products into marketable products, such as meat and bone meal for animal feed, human food additives, or cosmetics.

"Routine disposal" means the disposal of the carcass of a livestock animal that died in the normal course of business. Routine disposal does not include carcasses of livestock ordered depopulated by the director or depopulated as a result of a reportable disease listed in WAC 16-70-010.

NEW SECTION

WAC 16-25-025 Routine disposal. A carcass must be disposed of within seventy-two hours of the time of death or discovery to avoid nuisance odors or disease. If weather conditions prevent burial within seventy-two hours and rendering, composting, landfilling, or natural decomposition cannot be accomplished, then the carcass must be buried as soon as the weather permits. The following are acceptable methods for the routine disposal of carcasses:

(1) **Burial.**

(a) A carcass may be disposed of by burial on the property where the livestock animal died if done with the approval of the property owner.

(b) A carcass must be buried to a depth so that no part of the carcass is nearer than three feet to the natural surface of the ground. Every part of the carcass must be covered with at

least three feet of soil within twenty-four hours of placement in the ground.

(c) Carcass burial must be:

(i) At least three hundred feet from any well, spring, or body of surface water, such as a river, stream, lake, pond, or intermittent stream;

(ii) At least three hundred feet from any residence not owned by the owner of the livestock animal;

(iii) At least fifty feet from any property line between parcels under different ownership; and

(iv) Not in a low-lying area subject to seasonal flooding or within a hundred-year flood plain or in a manner that will impact ground water.

(d) Each burial site is limited to one thousand pounds of carcasses or one livestock animal weighing more than one thousand pounds.

(e) Carcass burial is not allowed on a property of less than five acres, except for the burial of a single carcass weighing less than two hundred pounds. The maximum amount of land used for burial during any year is limited to ten percent of the property or one acre, whichever is greater.

(2) **Burning.** Open burning of carcasses is not allowed for routine disposal under RCW 70.94.775.

(3) **Composting.** Composting must be conducted in compliance with chapter 70.95 RCW and chapter 173-350 WAC.

(4) **Incineration.**

(a) Complete incineration of carcasses to a mineral residue must be performed in an approved incineration facility or by a mobile air curtain incinerator; and

(b) Appropriate permits must be obtained in advance through the local air pollution control authority or the department of ecology in accordance with requirements of chapter 70.94 RCW, Washington Clean Air Act.

(5) **Landfill.** Carcasses may be disposed of at a privately or publicly owned landfill with prior approval of the local health officer and the landfill operator, and permitted in accordance with chapter 70.95 RCW and chapters 173-350 and 173-351 WAC.

(6) **Natural decomposition.** A livestock animal that dies on private or state rangeland from causes other than a significant infectious or contagious disease agent may be left to decompose naturally on that property as long as the carcass:

(a) Is at least one thousand three hundred twenty feet from any well, spring, sinkhole, or body of surface water such as a river, stream, lake, pond, or intermittent stream;

(b) Is at least one thousand three hundred twenty feet from any residence not owned by the owner of the dead livestock animal;

(c) Is at least one thousand three hundred twenty feet from any public roadway;

(d) Is out of public view; and

(e) Is left to decompose on the land with the property owner's permission.

(7) **Digestion.** Digestion of carcasses may be accomplished only in a properly designed and sized carcass digester approved by the director.

(8) **Rendering.** Carcasses may be rendered only by a rendering plant licensed under chapter 16.68 RCW, Disposal of dead animals.

NEW SECTION

WAC 16-25-030 Disposal of livestock that have died from a reportable disease. The carcass of a livestock animal that has died from a reportable disease must be disposed of in consultation with the state veterinarian. The list of reportable diseases and reporting requirements are found in chapter 16-70 WAC.

NEW SECTION

WAC 16-25-040 General emergency authority. If the state veterinarian determines there is an animal health emergency, the state veterinarian has the authority to specify the method of disposal and place additional requirements for the disposal of carcasses of livestock animals that die of disease or are euthanized to prevent the spread of disease.

WSR 07-10-087

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 1, 2007, 2:16 p.m., effective June 1, 2007]

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

Purpose: This rule-making order modifies the reporting requirements for infectious and contagious livestock diseases and updates the list of reportable diseases.

Citation of Existing Rules Affected by this Order: Amending WAC 16-70-005, 16-70-010, and 16-70-020.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 07-08-019 on March 26, 2007.

Changes Other than Editing from Proposed to Adopted Version: WAC 16-70-005 Definitions: Changed "Reportable disease list means the list of diseases that are reportable to the OIE and the state veterinarian" to "Reportable disease list means the list of diseases that include the OIE notifiable disease list and other diseases listed in this chapter."

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: May 1, 2007.

Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 00-06-064, filed 3/1/00, effective 4/1/00)

WAC 16-70-005 Definitions. For the purpose of this chapter:

((4)) "Animal" means any animal species except fish and insects including all those so classified as wild, captive wild, exotic wild, alternative livestock, semidomesticated, domestic or farm.

((2)) "~~Domestic animal~~" means ~~any farm animal raised for the production of food and fiber or companion animal or both.~~

(3) "Farm animal" means any species which have normally and historically been kept and raised on farms in Washington, the United States, or elsewhere and used or intended for use as food, fiber, breeding, or draft and which may be legally kept for such use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

(4) "Alternative livestock" means any species which can be kept or raised on farms and used or intended for use as food, fiber, breeding, or draft and which may be legally kept for use in Washington and are not those animals classified as wildlife or deleterious exotic wildlife under Title 77 RCW.

(5) "Wild animal" means those species of the class Mammalia whose members exist in Washington in a wild state.

(6) "Exotic wild animal" means those species of animals whose members do not exist in the state of Washington but exist elsewhere in the world in the wild state.

(7)) "OIE notifiable disease list" means the diseases listed by the OIE in the *Terrestrial Animal Health Code* (15th Edition, 2006). The OIE notifiable disease list may be found on the internet at: http://www.oie.int/eng/maladies/en_classification.htm. The list may also be found in the Washington state department of agriculture's *Animal Health Handbook for Veterinarians*.

"OIE" means Office International des Epizooties. The OIE is the World Organization of Animal Health.

"Reportable disease list" means the list of diseases that include the OIE notifiable disease list and other diseases listed in this chapter.

((8)) "Veterinary laboratory" means a place equipped for performing diagnostic or investigative procedures on submitted specimens from animals and fish ~~(or their environment where the tests are conducted)~~ by personnel whose primary duties are to conduct such procedures.

AMENDATORY SECTION (Amending WSR 00-06-064, filed 3/1/00, effective 4/1/00)

WAC 16-70-010 ((Reporting diseases)) Requirements for reporting diseases that are on the OIE notifiable disease list. (1) Any veterinary laboratory or person licensed to practice veterinary medicine in the state of Washington ~~(, veterinary laboratories, and others designated by statute)~~ shall immediately report to the ~~((director))~~ office of

the state veterinarian the ~~((discovery of the))~~ existence or suspected existence among any animals within the state of any ~~((of the))~~ reportable or notifiable diseases as published by the ~~((director of agriculture))~~ OIE (effective January 23, 2006) or in this chapter.

(2) Case definitions shall conform to OIE standards under the ~~((OIE International))~~ *Terrestrial Animal Health Code* ~~((where))~~ (15th Edition, 2006) and the *OIE Manual of Diagnostic Tests and Vaccines for Terrestrial Animals, 5th Edition, 2004, with updates published online at: http://www.oie.int/eng/publicat/en_standards.htm.*

(a) A case means an individual animal affected by one of the ~~((infectious or parasitic))~~ diseases ~~((recognized by OIE,))~~ listed on the OIE notifiable disease list or a disease listed in this chapter.

(b) The criterion by which "affected" is defined ~~((and made clear in each instance))~~ for each disease (for example: Clinical signs, serological evidence, etc.) is found in the *Terrestrial Animal Health Code and Manual of Diagnostic Tests and Vaccines for Terrestrial Animals*.

(c) The OIE ~~((International))~~ *Terrestrial Animal Health Code* can be found on the internet under OIE-~~((International))~~ Health Standards at: http://www.oie.int/eng/normes/en_mcode.htm. The ~~((International))~~ *Terrestrial Animal Health Code* is available in web format ~~((or))~~; a hard copy version may be ordered from OIE. ~~((Exceptions to the above standards are as noted in subsection (3) of this section.~~

(2) The following listed emergency diseases, suspected or confirmed, shall be reported immediately (by telephone or fax on day discovered) to the office of the state veterinarian whenever encountered among animals within the state:

All suspected foreign or eradicated diseases including all of the following diseases:

- African Horse Sickness
- African Swine Fever
- Bovine Spongiform Encephalopathy (BSE)
- Caprine and Ovine Brucellosis (excluding *Brucella ovis*)
- Classical Swine Fever (Hog Cholera)
- Contagious Bovine Pleuropneumonia
- Contagious Equine Metritis
- Contagious Agalactia
- Contagious Caprine Pleuropneumonia
- Dourine
- Enterovirus Encephalomyelitis (exotic strains)
- Epizootic Lymphangitis
- Equine Piroplasmiasis
- Exotic (velogenic and mesogenic strains) Newcastle Disease
- Foot and Mouth Disease (all types)
- Glanders
- Heartwater
- Horse Pox
- Japanese Encephalitis
- Lumpy Skin Disease

Malignant Catarrhal Fever (foreign strain)
 Nairobi Sheep Disease
 Ovine Pulmonary Adenomatosis
 Peste des Petits Ruminants
 Rift Valley Fever
 Rinderpest
 Salmonellosis (*Salmonella abortus ovis*)
 Screwworm
 Sheep Pox and Goat Pox
 Surra (*Trypanosoma evansi*)
 Theileriosis (*Theileria parva*, *T. annulata* and other foreign species)
 Trypanosomiasis (*Trypanosoma congolense*, *T. vivax*, *T. brucei brucei*)
 Venezuelan Equine Encephalomyelitis

In addition the following foreign fish diseases are reportable to the director through the director of the Washington department of fish and wildlife:

Epizootic Hematopoietic Necrosis
 Herpesvirosis of Salmonids (*Onchorynchus Masou Virus Disease*)
 Spring Viremia of Carp
 Viral Hemorrhagic Septicemia (European strain)

The following domestic diseases are also reportable immediately:

Anthrax
 Fowl Plague (Highly Pathogenic Avian Influenza)
 Rabies
 Swine Vesicular Disease
 Sylvatic plague
 Vesicular stomatitis

(3) The following listed diseases suspected or confirmed shall be reported the next working day, by telephone or fax to the office of the state veterinarian whenever encountered among animals within the state. Case definitions are as indicated for each disease.

Brucellosis (positive serology, abortion, or bacterial culture)
 Contagious Ecthyma (sheep, goats, llama, alpaca) (clinical signs or virus isolation)
 Chronic Wasting Disease (Cervids) (clinical signs, histopathology, or chemical histopathology)
 Equine Encephalitis EEE, WEE (horses) (clinical signs, histopathology, or positive serology with increasing titer)
 Fowl Typhoid (*Salmonella gallinarum*) (bacterial culture and positive serology)
 Infectious Coryza (poultry) (clinical signs, bacterial culture and positive serology)

Laryngotracheitis (poultry) (clinical signs, viral culture or positive serology)
 Lyme Disease (any species) (clinical signs and positive serology)
 Ornithosis or Psittacosis (all birds) (bacterial culture, positive serology, or other positive laboratory diagnostic tests)
 Pullorum Disease (*Salmonella pullorum* or typhoid) (bacterial culture and positive serology)
 Potomac Horse Fever (horses) (clinical signs and positive serology)
 Pseudorabies (swine) (positive serology)
 Scrapie (sheep, goats) (clinical signs, histopathology, or chemical histopathology)
 Tuberculosis (clinical signs, history of exposure, responder to tuberculin, granulomas submitted as possible tuberculosis lesions, acid fast organisms not identified as Johne's or benign types, bacterial culture positive for *M. tuberculosis*, *M. bovis* or *M. avium* in a mammal, or other laboratory tests diagnostic for *M. tuberculosis*, *M. bovis* or *M. avium* in a mammal)
 Tularemia (sheep, dogs, cats, rabbits, wildlife) (clinical signs, serology or bacterial culture)

(4) The following listed diseases are reportable monthly by the fifth working day of the month to the office of the state veterinarian when diagnosed in the previous month by any veterinary laboratory performing testing or diagnostic procedures on any animal resident in the state of Washington. Only the first case of each individual disease diagnosed each month needs to be reported. The diseases listed below with others listed in subsections (1) and (2) of this section will be reported on a qualitative basis each month to the National Animal Health Reporting System (NAHRS) by the state veterinarian.

Anaplasmosis
 Atrophic Rhinitis
 Babesiosis
 Bovine Genital Campylobacteriosis
 Avian Infectious Bronchitis
 Avian Tuberculosis
 Caprine Arthritis/Encephalitis (CAE)
 Cysticereosis
 Dermatophilosis (*Dermatophilus congolensis*) cattle only
 Duck Viral Enteritis
 Duck Viral Hepatitis
 Bluetongue
 Echinococcosis/Hydatidosis
 Enzootic Abortion of Ewes (Ovine Psittacosis, *Chlamydia psittaci*)
 Enzootic Bovine Leukosis (BLV)
 Equine Influenza (Virus Type A)

Equine Rhinopneumonitis (1 and 4)
 Equine Viral Arteritis (EVA)
 Fowl Cholera (*Pasteurella multocida*)
 Fowl Pox
 Hemorrhagic Septicemia (*Pasteurella multocida*)
 Horse mange
 Infectious Bursal Disease (Gumboro Disease)
 Infectious Bovine Rhinotracheitis/Infectious Pustular
 Vulvovaginitis (IBR/IPV)
 Infectious Hematopoietic Necrosis (to be reported by
 fish laboratories)
 Leptospirosis
 Maedi-Visna/Ovine Progressive Pneumonia
 Marek's Disease
 Mycoplasmosis (*Mycoplasma gallisepticum*)
 Ovine Epididymitis (*Brucella ovis*)
 Paratuberculosis (Johne's Disease)
 Porcine Reproductive and Respiratory Syndrome
 (PRRS)
 Transmissible Gastroenteritis (TGE)
 Trichomoniasis
 Q Fever (*Coxiella burnetii*)

Leukosis (cattle)
 Leukemia (cats)
 Listeriosis
 Malignant edema (horses, cattle)
 Malignant catarrhal fever (sheep)
 Mycotic stomatitis
 Infectious mastitis (cattle) (goats)
 Newcastle disease (lentogenic or low pathogenic strain)
 Paratuberculosis (Johne's disease, confirmed only)
 Parvo and related viruses (dogs)
 Salmonellosis (including paratyphoid and enteritidis in
 poultry typhimurium (DT 104), *S. dublin* and *S.*
 Newport in cattle and any salmonella outbreaks in
 horses)
 Scabies (swine and small animals) (nonotodectic)
 Strangles (confirmed *Strep. equi*)
 Tetanus (*Clostridium tetani*) (horses) (sheep)
 Transmissible mink encephalopathy
 Toxoplasmosis
 Transmissible gastroenteritis (TGE of swine)
 Tuberculosis (dogs, cats)
 Trichomoniasis))

(5) The following list of diseases suspected or confirmed by veterinarians or veterinary laboratories shall be reported if notified to do so by letter from the state veterinarian's office whenever encountered in any animals during the reporting month. These diseases are to be reported by the 10th day of the next month. The case definition will be supplied with notification of required reporting.

Anaplasmosis
 Aleutian disease (mink)
 Atrophic rhinitis
 Blackleg
 Bovine viral diarrhea
 Botulism (horses, swine, mink)
 Bluetongue
 Campylobacteriosis
 Coccidiosis (clinical cases only)
 Distemper (dogs, mink)
 Edema disease of swine
 Equine protozoal myeloencephalitis
 Equine viral arteritis (abortion or respiratory)
 Equine viral rhinopneumonia (abortion)
 Erysipelas (swine)
 Feline panleukopenia
 Heartworm
 Histoplasmosis
 Influenza (swine) (horses)
 Leptospirosis

AMENDATORY SECTION (Amending Order 5011, filed 9/21/93, effective 10/22/93)

WAC 16-70-020 (~~Reporting diseases—Not required, requested only.~~) Other diseases reportable to WSDA.

(1)(a) In addition to the diseases published on the OIE notifiable disease list, the state veterinarian may request reports on ((any)) other diseases ((that)) of concern ((the director)) from a statistical or survey standpoint associated with overall disease control measures.

(b) Any veterinarian or veterinary laboratory may ((also)) voluntarily report ((any)) to the office of the state veterinarian other diseases ((of this nature on the monthly disease report forms as he/she determines they are pertinent to the purposes of the department and advantageous to disease control in the state)) that are not on the OIE notifiable disease list or not listed below.

(2) In addition to the diseases that are on the OIE notifiable disease list, the following diseases must be reported immediately to the office of the state veterinarian:

Beef measles (*Teania saginata*)
Chronic wasting disease in cervids (Transmissible Spongiform Encephalopathy)
Contagious ecthyma (Orf)
Hantavirus
Infectious Coryza in poultry (*Hemophilus gallinarum*)
Listeriosis
Low pathogenic avian influenza H5/H7
Lyme disease
Plague (*Yersinia pestis*)
Potomac horse fever (*Erlichiosis*)
Salmonellosis (any livestock species)
Scabies (any livestock species)

Shigella-toxin producing *E. coli*
Strangles in equine (*Streptococcus equi*)

WSR 07-10-090
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-68—Filed May 1, 2007, 2:37 p.m., effective June 1, 2007]

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

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-52-001.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 07-04-071 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 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: April 20, 2007.

Susan Yeager
 for Jerry Gutzwiler, Chair
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-52-001 Shellfish—Geographical definitions. (1) "Puget Sound" means Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 23C, 23D, 24A, 24B, 24C, 25A, 25B, 25C, 25D, 25E, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, 28D, and 29.

(2) "Grays Harbor" means Marine Fish-Shellfish Management and Catch Reporting Area 60B.

(3) "Willapa Harbor" means Marine Fish-Shellfish Management and Catch Reporting Area 60C.

(4) "Columbia River" means Marine Fish-Shellfish Management and Catch Reporting Area 60D.

(5) "Coastal Waters" means Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, ~~(and)~~ 60A-1, and 60A-2.

PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed May 2, 2007, 10:21 a.m., effective June 2, 2007]

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

Purpose: To repeal language that concerns on-site practice permits, which ended on June 30, 2003; repeal late penalty fees for certificate of competency holders; repeal suspended fees; and amend current fees for on-site designers and certificate of competency holders.

Citation of Existing Rules Affected by this Order: Repealing WAC 196-30-100 and 196-30-110; and amending WAC 196-30-020 and 196-30-030.

Statutory Authority for Adoption: RCW 43.24.086.

Other Authority: Chapter 18.210 RCW.

Adopted under notice filed as WSR 07-07-120 on March 20, 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 2, Repealed 2.

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

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

Date Adopted: May 2, 2007.

Ralph Osgood
 Assistant Director

AMENDATORY SECTION (Amending WSR 99-24-022, filed 11/23/99)

WAC 196-30-020 On-site wastewater treatment designer and inspector fees. The business and professions division of the department of licensing shall assess the following fees:

Title of Fee	Amount (\$)
((Practice permit application	100.00))
((Practice permit renewal	250.00))
Designer license application	((175.00)) 200.00
Designer license application (comity)	((50.00)) 75.00
Designer license renewal	((250.00)) 325.00
Designer license re-examination	((100.00)) 140.00
Late Renewal Penalty	100.00

Title of Fee	Amount (\$)
Certificate of competency (inspector) Application	175.00
Certificate of competency renewal	((250.00)) 150.00
Certificate of competency re-examination	((100.00)) 140.00
((Late Renewal Penalty	100.00))

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

AMENDATORY SECTION (Amending WSR 99-24-022, filed 11/23/99)

WAC 196-30-030 License renewals. ~~((1) Practice permits are valid for one year. They must be renewed each year by paying the required fee no later than the anniversary date of when the permit was originally issued. A valid practice permit will remain in force until the permit holder is issued a designer license, or July 1, 2003, whichever comes first. The permit holder must renew for a full year. No refunds will be made, or payments accepted, for a partial year.))~~

~~((2))~~ (1) The initial designer license and certificate of competency will expire on the licensee's or certificate holder's next birth date. However, if the licensee's or certificate holder's next birth date is within three months of the initial date of issuing the license or certificate, the original license or certificate will expire on his or her second birthday following issuance of the original license or certificate. All subsequent renewals shall be for a one-year period due on the individuals birth date. No refunds will be made, or payments accepted for a partial year.

~~((3))~~ (2) It shall be the licensee's or certificate holder's responsibility to pay the prescribed renewal fee to the department of licensing on or before the date of expiration.

~~((4))~~ (3) Licensees ~~((and certificate holders))~~ who fail to pay the prescribed renewal fee within ninety days of the license expiration date will be subject to a late penalty fee of \$100.00. However, the license or certificate is invalid the date of expiration (if not renewed) even though an additional 90 days is granted to pay the renewal fee without penalty. After ninety days, the base renewal fee plus the penalty fee must be paid before the license or certificate can be renewed to a valid status.

~~((5))~~ (4) Any designer license ~~((or certificate of competency))~~ that remains expired for more that two years would be canceled. After cancellation, a new application must be made in accordance with chapter 18.210 RCW to obtain another license ~~((or certificate))~~.

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

**Chapter 196-30 WAC
FEES FOR ON-SITE WASTEWATER TREATMENT
DESIGNERS AND INSPECTORS**

REPEALER

The following sections of the Washington Administrative code are repealed:

WAC 196-30-100	Suspended fees.
WAC 196-30-110	Suspended fees.

**WSR 07-10-127
PERMANENT RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

[Filed May 2, 2007, 10:24 a.m., effective June 2, 2007]

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

Purpose: To address explicit acts of misconduct that pertain to the professional practice of on-site designers and inspectors (certificate of competency holders).

Citation of Existing Rules Affected by this Order: Amending WAC 196-33-200.

Statutory Authority for Adoption: RCW 18.43.035.

Other Authority: Chapter 18.210 RCW.

Adopted under notice filed as WSR 07-07-122 on March 20, 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: May 2, 2007.

George A. Twiss
Executive Director

AMENDATORY SECTION (Amending WSR 01-11-102, filed 5/21/01)

WAC 196-33-200 Fundamentals canons and guidelines for professional practice and conduct. The specialized and complex knowledge required for on-site wastewater treatment system design makes it imperative that licensees exercise a standard of care that holds paramount the protec-

tion of the health, safety, environment, property, and welfare of the public.

(1) Licensees are expected to apply the skill, diligence and judgment required by the professional standard of care, to achieve the goals and objectives agreed with the client or employer, and are expected to promptly inform the client or employer of progress and changes in conditions that may affect the appropriateness or achievability of some or all of the goals and objectives of the client or employer. Licensees are obliged to:

(a) Be honest and fair in their dealings, and to conform to the relevant laws and codes of the jurisdiction in which they practice.

(b) Be able to demonstrate that their final products and work plans adequately consider the primary importance of protecting the safety, health, property, and welfare of the general public.

(c) Approve or seal only documents prepared by them or under their direct supervision.

(d) Inform their clients or employers of the possible consequences, when an overruling or disregarding of the licensee's professional judgment may threaten the safety or health of the public. If in the judgment of the licensee an imminently dangerous situation persists, they shall promptly inform appropriate authorities.

(e) Inform the board in writing, citing specific facts to which the licensee has direct knowledge, if they have knowledge or reason to believe that another person or firm may be in violation of any of the provisions of chapter 18.210 RCW or these rules of professional conduct, and cooperate with the board in furnishing such further information or assistance as may be required.

(2) Licensees shall be competent in the technology, and knowledgeable of the codes, regulations, and guidelines applicable to the services they perform.

(3) Licensees shall be qualified by education and/or experience in the technical area of on-site wastewater treatment system design applicable to services performed and the technologies utilized.

(4) Licensees may accept primary contractual responsibility requiring education and/or experience outside their own area of competence, provided their services are restricted to those phases of the project in which they are qualified.

(5) Licensees shall not affix their signatures or seals to any plan or document dealing with subject matter in which they lack competence by virtue of education and/or experience.

(6) Licensees shall act in professional matters for each employer or client as faithful agents or trustees.

(7) Licensees shall be objective and truthful in professional documents, reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements or testimony. They shall not knowingly falsify, misrepresent or conceal a material fact in offering or providing services to a client or employer.

(8) Licensees shall avoid all known or potential conflicts of interest with their employers or clients and shall promptly inform their employers or clients of any business association,

interest, or circumstances, which could influence their judgment, or the quality of their services.

(9) Licensees shall only accept compensation from one party for services on a project, unless the circumstances are fully disclosed to and agreed to, by all interested parties.

(10) Licensees shall not solicit or, accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(11) Licensees shall advise their employers or clients when, as a result of their studies, they believe a project will not achieve the goals established with the client.

(12) Licensees shall not use confidential information coming to them in the course of their assignments as a means of making personal profit if such action is adverse to the interests of their clients, employers or the public.

(13) Licensees employed full-time shall not accept professional employment outside of their regular work or interest without the knowledge and consent of their employers.

(14) Licensees shall offer their professional services in a truthful, objective, and professional manner that results in public trust in the integrity of the on-site design profession.

(15) Licensees shall not request, propose or accept professional commissions on a contingent basis under circumstances in which their professional judgments may be compromised.

(16) Licensees shall not offer or accept money, goods or other favors as inducement to receive favorable consideration for a professional assignment or as an inducement to approve, authorize or influence the granting of a professional assignment. This shall not preclude the securing of salaried positions through employment agencies.

(17) Licensees shall negotiate contracts for professional services fairly and on the basis of demonstrated competence and qualifications for the type of professional service required.

(18) Licensees shall not falsify or permit misrepresentation of their academic or professional qualifications or experience.

(19) Licensees shall not advertise professional services in a way that is false or misleading as to the qualification, experience, or capability of the licensee.

(20) Public statements by licensees regarding the practice of on-site wastewater treatment systems design shall be objective and truthful.

(21) Licensees should endeavor to extend the public knowledge of on-site wastewater treatment system design and shall not participate in the dissemination of untrue, unfair, or exaggerated statements regarding the profession.

(22) Professional reports, statements, or testimony made to the public or public entities shall include all relevant and pertinent information to support conclusions or opinions expressed.

(23) Licensees when serving as an expert witness shall express an on-site design opinion only when it is founded upon adequate knowledge of the facts, upon a background of technical competence, and upon honest conviction.

(24) Licensees shall issue no statements, criticisms, or arguments regarding on-site design matters, which are

inspired or paid for by interested parties, unless they indicate on whose behalf the statements, are made.

(25) Licensees shall continue their professional development throughout their careers, and shall provide opportunities for the professional development of those individuals under their supervision.

(26) Licensees shall respond to any legal request for information by the board and/or appear before the board in the time frame established by the board or their staff designee.

(27) In addition to the requirements of RCW 18.210.020 and this chapter, the following acts are contrary to the standard of practice for individuals authorized to practice under this chapter and constitute unprofessional conduct in the practice of on-site wastewater treatment system designing:

(a) Duplicating, copying, removing or attempting to remove materials from the custody and control of the Board that are exempt from inspection or copying under chapter 42.17 RCW when such duplication, copying or removal was not expressly authorized by the board.

(b) Failure to notify a client or employer that a project could not be completed or was not completed.

(c) Failure to respond to client inquiries under conditions which endanger the health, safety, or welfare of the public or the client or the client's property.

(d) Failure to respond to inquiries from other on-site practitioners or governmental agencies regarding differences in your respective work products, under conditions which endanger the public health, safety, or welfare or the health, safety, or welfare of the client or the client's property.

(e) Any act, statement or behavior that harasses, intimidates or retaliates against anyone who has provided information, assistance or testimony in connection with any Board inquiry, investigation, hearing or other proceeding.

(f) Disorderly, discriminatory or abusive behavior or statements which are significantly disruptive to the normal activities of a place of business or public view, where such behavior would give anyone witnessing the act a reasonable belief to be concerned for their safety or well-being.

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.