

WSR 08-02-019
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 21, 2007, 9:04 a.m., effective January 21, 2008]

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

Purpose: ESSB 5290 (chapter 282, Laws of 2007) established the industrial insurance medical advisory committee to advise the department on medical issues to assure workers receive safe, effective treatment in a cost-effective manner. The rule specifies how the committee will work administratively and how it will interact with the other agency advisory committees.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-01001.

Statutory Authority for Adoption: ESSB 5290 (chapter 282, Laws of 2007), RCW 51.04.02 [51.04.020], 51.04.030.

Adopted under notice filed as WSR 07-15-074 [07-19-096] on July 17, 2007 [September 18, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.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: December 21, 2007.

Judy Schurke
 Director

AMENDATORY SECTION (Amending Order 77-27, filed 11/30/77, effective 1/1/78)

WAC 296-20-01001 ((Medical advisory)) Industrial insurance medical advisory committee. ~~((1) The Washington state medical association shall appoint an advisory and utilization review committee composed of nine members, one of whom shall be an osteopathic physician nominated by the Washington state osteopathic medical association. The remaining members should be selected from the following specialty groups: Family or general practice, orthopaedics, neurology or neurosurgery, general surgery, physical medicine and rehabilitation, psychiatry, internal medicine, and industrial medicine.~~

~~(2) The committee will function as an advisor to the department with respect to policies affecting medical care and rehabilitation, quality control and supervision of medical care, and the establishment of rules and regulations. It shall also advise and assist the department in the resolution of controversies, disputes and problems between the department and the providers of medical care. It will also advise and~~

~~assist the department in the education of members of the medical community with regard to the roles of the physician, the department and the employer in providing the needs and care of the injured worker.~~

~~(3) The committee shall normally meet on a monthly basis or as necessity dictates. The department will reimburse members of the committee for each meeting.) (1)(a) The director shall appoint an industrial insurance medical advisory committee (committee) composed of up to fourteen members.~~

~~(b) The appointments shall include twelve members from the nominations provided by statewide clinical groups, specialties, and associations and shall be consistent with the specialty types required by law.~~

~~(c) At least two of the total fourteen members must be physicians who are recognized for expertise in evidence-based medicine.~~

~~(d) The director may choose up to two of the fourteen members, not necessarily from the nominations submitted, who have expertise in occupational medicine.~~

~~(e) To the extent possible, members shall be chosen from nominees with experience or knowledge of treating injured workers or evidence-based medicine, or both.~~

~~(f) The director may, at his or her discretion, exclude or remove any nominee, committee member, or hired expert if the person does not meet a condition of appointment, including but not limited to:~~

~~(i) Having, or failing to disclose, a conflict of interest;~~

~~(ii) Breaching a statute, rule, or the committee's bylaws, including a quality of care concern or professional related action alleged by a government agency; or~~

~~(iii) If the committee or committee chair recommends removal for good cause shown.~~

~~(g) Appointments to the committee shall be up to three year terms, which the department may renew.~~

~~(2)(a) The committee will function as an advisor to the department with respect to the provision of safe, effective, and cost-effective health care for injured workers, including but not limited to the development of practice guidelines, and coverage criteria, review of coverage decisions and technology assessments, review of medical programs, and review of rules pertaining to health care issues.~~

~~(b) The committee may provide peer review and advise and assist the department in the resolution of controversies, disputes, and issues between the department and the providers of medical care.~~

~~(c) After approval by the department, the committee may consult with experts, services, and form ad hoc groups, committees, or subcommittees for the purpose of advising the department on specific topics to fulfill the purposes of the committee. Such experts or ad hoc groups will develop recommendations for the committee's approval.~~

~~(d) The committee's function may include but is not limited to the following:~~

~~(i) Advising the department on coverage decisions from technology assessments based on the best available scientific evidence, from which the department may use the committee's advice for making coverage decisions and for making proper and necessary industrial insurance claim decisions for~~

covered services (see WAC 296-20-02704 for medical coverage decision criteria);

(ii) Advising the department on treatment guidelines for covered services based on proper and necessary standards, the best available scientific evidence, and the expert opinion of the medical advisory committee. The department may use the committee's advice for provider education, for criteria for the department's utilization review program, and for making proper and necessary industrial insurance claim decisions;

(iii) Advising the department on criteria related to definitions of quality of care and patterns of harmful care;

(iv) Advising the department on issues related to emerging medical conditions and the scientific evidence related to them; and

(v) Advice to the department in (d)(i) through (iv) of this subsection shall not pertain to nor include the review of a specific individual claim.

(e) Committee approval regarding advice to the department shall be based on a consensus of the members present. If after all reasonable efforts a consensus cannot be reached, the committee shall vote using the procedure described in the bylaws. A quorum, which shall be half plus one of the appointed members, must be present to vote and provide approval regarding advice to the department. Implementation of the committee's advice by the department is discretionary and solely the responsibility of the department.

(3) The members of the committee, including hired experts and any ad hoc group or subcommittee:

(a) Are immune from civil liability for any official acts performed in good faith to further the purposes of the industrial insurance medical advisory committee; and

(b) May be compensated for participation in the work of the industrial insurance medical advisory committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the industrial insurance medical advisory committee.

(4) The committee shall coordinate with the state health technology assessment program and the state prescription drug program. With regard to issues in which the committee's opinion may differ with findings of the state health technology assessment program or the state prescription drug program, the department must give greater weight to the findings of the state's health technology assessment program and the state's prescription program.

(5) The committee shall operate under conditions set out in bylaws as approved by the department and ratified by the committee.

(6)(a) The committee and ad hoc group or subcommittee shall meet on a schedule as set by the department.

(b) The department shall collaborate with the committee to prepare the agenda for each meeting, including prioritization of issues to be addressed, with the final approval of the agenda given to the department.

(c) All meetings of the committee or ad hoc subcommittee(s) are subject to chapter 42.30 RCW, the Open Public Meetings Act. Notice as to the date, time, location and agenda or topics shall be published on the department's web site, and in the *Washington State Register*. Additional notification via electronic communication shall be provided to

committee members and other interested parties. Publication of the committee meeting shall occur with enough notice to ensure committee members or members of the public who have disabilities have an equal opportunity to participate.

WSR 08-02-020

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed December 21, 2007, 9:08 a.m., effective January 21, 2008]

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

Purpose: ESSB 5290 (chapter 282, Laws of 2007) established the industrial insurance chiropractic advisory committee to advise the department on chiropractic issues to assure workers receive safe, effective treatment in a cost-effective manner. The rule specifies how the committee will work administratively and how it will interact with the other agency advisory committees. This rule making also amends WACs to update references to the department's advisory committees.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-0100, 296-20-02704, and 296-20-02705.

Statutory Authority for Adoption: ESSB 5290 (chapter 282, Laws of 2007), RCW 51.05.02 [51.04.020], 51.04.030.

Adopted under notice filed as WSR 07-15-075 [07-19-095] on July 17, 2007 [September 28, 2007].

Changes Other than Editing from Proposed to Adopted Version: Three words were added to the rule "to practice chiropractic." The new phrase is, the committee is composed of up to nine members licensed "to practice chiropractic" in Washington. The added words make it clear that committee members must be chiropractors, which is required by statute, so this is simply a clarifying change only.

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 3, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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: December 21, 2007.

Judy Schurke
Director

AMENDATORY SECTION (Amending Order 88-28, filed 12/1/88, effective 1/1/89)

WAC 296-20-0100 Industrial insurance chiropractic advisory committee. ~~((1) The director or the director's designee shall appoint a chiropractic advisory and utilization review committee.~~

~~(2) The committee will function as an advisor to the department with respect to policies affecting chiropractic care, quality assurance, clinical management of cases, utilization review, and the establishment of rules. It shall advise and assist the department in the department's relationship with providers of chiropractic care, and assist the department in ensuring that injured workers receive good quality chiropractic care in a safe and effective manner.~~

~~(3) The chiropractic advisory committee shall:~~

~~(a) Advise the department on standards as to what constitutes effective and accepted chiropractic treatment, for use by attending chiropractors and for chiropractic consultants to use in reviewing cases referred for consultation;~~

~~(b) Advise the department on standards and minimum credentials for chiropractic consultants and the content of consultant reports; and~~

~~(c) Review the performance of individual chiropractors and chiropractic consultants for conformance with standards and requirements and advise the department of instances where standards and requirements have not been met.~~

~~The department shall review the advice and recommendations of the committee and shall promulgate those standards and requirements which it chooses to adopt. The department shall review the advice from the committee on the performance of chiropractors and shall act upon this advice at its sole discretion.~~

~~(4) The committee will meet on a monthly basis or as needed. The department will reimburse members of the committee for travel and incidental expenses related to the meetings.)~~ (1)(a) The director shall appoint an industrial insurance chiropractic advisory committee (committee) composed of up to nine members licensed to practice chiropractic in Washington from the nominations provided by statewide associations.

(b) At least two of the total nine members must be chiropractors who are recognized for expertise in evidence-based practice or occupational health, or both.

(c) To the extent possible, all members shall have experience or knowledge of treating injured workers or evidence-based practice, or both.

(d) The director may, at his or her discretion, exclude or remove any nominee, committee member, or hired expert if the person does not meet a condition of appointment, including but not limited to:

(i) Having, or failing to disclose, a conflict of interest;

(ii) Breaching a statute, rule, or the committee's bylaws, including a quality of care concern or professional related action alleged by a government agency; or

(iii) If the committee or committee chair recommends removal for good cause shown.

(e) Appointments to the committee shall be up to three year terms, which the department may renew.

(2)(a) The committee will function as an advisor to the department with respect to the provision of safe, effective,

and cost-effective health care for injured workers, including but not limited to, policy development regarding chiropractic care for injured workers, the development of practice guidelines and coverage criteria, review of coverage decisions and technology assessments, review of chiropractic programs, and review of rules pertaining to health care issues.

(b) The committee may provide peer review and advise and assist the department in the resolution of controversies, disputes, and issues between the department and the providers of chiropractic care.

(c) After approval by the department, the committee may consult with experts, services, and form ad hoc groups, committees, or subcommittees for the purpose of advising the department on specific topics to fulfill the purposes of the committee. Such experts or ad hoc groups will develop recommendations for the committee's approval.

(d) The committee's function may include, but is not limited to, the following:

(i) Advising the department on coverage decisions from technology assessments based on the best available scientific evidence, from which the department may use the committee's advice for making coverage decisions and for making proper and necessary industrial insurance claim decisions for covered services (see WAC 296-20-02704 for coverage decision criteria);

(ii) Advising the department on treatment guidelines for covered services based on proper and necessary standards, the best available scientific evidence, and the expert opinion of the industrial insurance chiropractic advisory committee. The department may use the committee's advice for provider education, for criteria for the department's utilization review program, and for making proper and necessary industrial insurance claim decisions;

(iii) Advising the department on criteria related to definitions of quality of care and patterns of harmful care;

(iv) Advising the department on issues related to emerging medical conditions and the scientific evidence related to them; and

(v) Advice to the department in (d)(i) through (iv) of this subsection shall not pertain to nor include the review of a specific individual claim.

(e) Committee approval regarding advice to the department shall be based on a consensus of the members present. If after all reasonable efforts a consensus cannot be reached, the committee shall vote using the procedure described in the bylaws. A quorum, which shall be half plus one of the appointed members, must be present to vote and provide approval regarding advice to the department. Implementation of the committee's advice by the department is discretionary and solely the responsibility of the department.

(3) The members of the committee, including hired experts and any ad hoc group or subcommittee:

(a) Are immune from civil liability for any official acts performed in good faith to further the purposes of the industrial insurance chiropractic advisory committee; and

(b) May be compensated for participation in the work of the industrial insurance chiropractic advisory committee in accordance with a personal services contract to be executed after appointment and before commencement of activities

related to the work of the industrial insurance chiropractic advisory committee.

(4) The committee shall coordinate with the state health technology assessment program and the state prescription drug program. With regard to issues in which the committee's opinion may differ with findings of the state health technology assessment program or the state prescription drug program, the department must give greater weight to the findings of the state's health technology assessment program and the state's prescription program.

(5) The committee shall operate under conditions set out in bylaws as approved by the department and ratified by the committee.

(6)(a) The committee and ad hoc group or subcommittee shall meet on a schedule as set by the department.

(b) The department shall collaborate with the committee to prepare the agenda for each meeting, including prioritization of issues to be addressed, with the final approval of the agenda given to the department.

(c) All meetings of the committee or ad hoc subcommittee(s) are subject to chapter 42.30 RCW, the Open Public Meetings Act. Notice as to the date, time, location and agenda or topics shall be published on the department's web site, and in the *Washington State Register*. Additional notification via electronic communication shall be provided to committee members and other interested parties. Publication of the committee meeting shall occur with enough notice to ensure committee members or members of the public who have disabilities have an equal opportunity to participate.

AMENDATORY SECTION (Amending WSR 04-08-040, filed 3/30/04, effective 5/1/04)

WAC 296-20-02704 What criteria does the director or director's designee use to make medical coverage decisions?

(1) In making medical coverage decisions, the director or the director's designee considers information from a variety of sources. These sources include, but are not limited to:

- Scientific evidence;
- National and community-based opinions;
- Informal syntheses of provider opinion;
- Experience of the department and other entities;
- Regulatory status.

Because of the unique nature of each health care service, the type, quantity and quality of the information available for review may vary. The director or director's designee weighs the quality of the available evidence in making medical coverage decisions.

(2) Scientific evidence.

(a) "Scientific evidence" includes reports and studies published in peer-reviewed scientific and clinical literature. The director or the director's designee will consider the nature and quality of the study, its methodology and rigor of design, as well as the quality of the journal in which the study was published.

• For treatment services, studies addressing safety, efficacy, and effectiveness of the treatment or procedure for its intended use will be considered.

• For diagnostic devices or procedures, studies addressing safety, technical capacity, accuracy or utility of the device or procedure for its intended use will be considered.

(b) The greatest weight will be given to the most rigorously designed studies and on those well-designed studies that are reproducible. The strength of the design will depend on such scientifically accepted methodological principles as randomization, blinding, appropriateness of outcomes, spectrum of cases and controls, appropriate power to detect differences, magnitude and significance of effect. Additional consideration will be given to those studies that focus on sustained health and functional outcomes of workers with occupational conditions rather than unsustained clinical improvements.

(3) National and community-based opinion.

(a) "National opinion" includes, but is not limited to, syntheses of clinical issues that may take the form of published reports in the scientific literature, national consensus documents, formalized documents addressing standards of practice, practice parameters from professional societies or commissions, and technology assessments produced by independent evidence-based practice centers.

The director or the director's designee will consider the nature and quality of the process used to reach consensus or produce the synthesis of expert opinion. This consideration will include, but may not be limited to, the qualifications of participants, potential biases of sponsoring organizations, the inclusion of graded scientific information in the deliberations, the explicit nature of the document, and the processes used for broader review.

(b) "Community-based opinion" refers to advice and recommendations of formal committees made up of clinical providers within the state of Washington. As appropriate to the subject matter, this may include recommendations from the department's formal advisory committees:

• The industrial insurance ~~((and rehabilitation committee of the Washington State Medical Association, which includes a representative from the Washington Osteopathic Medical Association))~~ medical advisory committee;

• The industrial insurance chiropractic advisory committee.

• The Washington state pharmacy and therapeutics committee.

• The Washington state health technology assessment clinical committee.

(4) "Informal syntheses of provider opinion" includes, but is not limited to, professional opinion surveys.

(5) Experience of the department and other entities.

The director or director's designee may consider data from a variety of sources including the department, other state agencies, federal agencies and other insurers regarding studies, experience and practice with past coverage. Examples of these include, but are not limited to, formal outcome studies, cost-benefit analyses, and adverse event, morbidity or mortality data.

(6) Regulatory status.

The director or director's designee will consider related licensing and approval processes of other state and federal regulatory agencies. This includes, but is not limited to:

- The federal food and drug administration's (FDA) regulation of drugs and medical devices (21 U.S.C. 301 et seq. and 21 CFR Chapter 1, Subchapters C, D, & H consistent with the purposes of this chapter, and as now or hereafter amended); and
- The Washington state department of health's regulation of scope of practice and standards of practice for licensed health care professionals regulated under Title 18 RCW.

AMENDATORY SECTION (Amending WSR 04-08-040, filed 3/30/04, effective 5/1/04)

WAC 296-20-02705 What are treatment and diagnostic guidelines and how are they related to medical coverage decisions? (1) Treatment and diagnostic guidelines are recommendations for the diagnosis or treatment of accepted conditions. These guidelines are intended to guide providers through the range of the many treatment or diagnostic options available for a particular medical condition. Treatment and diagnostic guidelines are a combination of the best available scientific evidence and a consensus of expert opinion.

(2) The department may develop treatment or diagnostic guidelines to improve outcomes for workers receiving covered health services. As appropriate to the subject matter, the department may develop these guidelines in collaboration with the department's formal advisory committees:

- The industrial insurance ~~((and rehabilitation committee of the Washington State Medical Association, which includes a representative from the Washington Osteopathic Medical Association))~~ medical advisory committee;
- The industrial insurance chiropractic advisory committee.
- The Washington state pharmacy and therapeutics committee.
- The Washington state health technology assessment clinical committee.

(3) In the process of implementing these guidelines, the department may find it necessary to make a formal medical coverage decision on one or more of the treatment or diagnostic options. The department, not the advisory committees, is responsible for implementing treatment guidelines and for making coverage decisions that result from such implementation.

WSR 08-02-021
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 21, 2007, 9:10 a.m., effective January 21, 2008]

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

Purpose: Rule making is needed to comply with EHB 2105 (chapter 134, Laws of 2007) which guarantees payment of initial prescription drugs for state fund claims regardless of claim acceptance.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-01002, 296-20-124, 296-20-170, and 296-20-17001.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030 and chapter 134, Laws of 2007 (EHB 2105).

Adopted under notice filed as WSR 07-22-094 on November 6, 2007.

Changes Other than Editing from Proposed to Adopted Version:

- Added "or" to WAC 296-20-124 (1)(a) to ensure the exceptions are mutually exclusive.
- Changed "provided" to "prescribed" for WAC 296-20-124 (1)(c), 296-20-17001(5), and 296-20-17004(2) to ensure consistency with the remainder WAC languages.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 4, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 4, Repealed 0.

Date Adopted: December 21, 2007.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-17-167, filed 8/22/07, effective 9/22/07)

WAC 296-20-01002 Definitions. Acceptance, accepted condition: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

Appointing authority: For the evidence-based prescription drug program of the participating agencies in the state purchased health care programs, appointing authority shall mean the following persons acting jointly: The administrator of the health care authority, the secretary of the department of social and health services, and the director of the department of labor and industries.

Attendant care: Those proper and necessary personal care services provided to maintain the worker in his or her residence. Refer to WAC 296-20-303 for more information.

Attending doctor report: This type of report may also be referred to as a "60 day" or "special" report. The following information must be included in this type of report. Also, additional information may be requested by the department as needed.

(1) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.

(2) Their relationship, if any, to the industrial injury or exposure.

(3) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.

(4) If the worker has not returned to work, the attending doctor should indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.

(5) If the worker has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance-based physical capacities evaluation can be requested. Performance-based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance-based physical capacities evaluations may also be conducted by other qualified professionals who provided performance-based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.

Authorization: Notification by a qualified representative of the department or self-insurer that specific proper and necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

Average wholesale price (AWP): A pharmacy reimbursement formula by which the pharmacist is reimbursed for the cost of the product plus a mark-up. The AWP is an industry benchmark which is developed independently by companies that specifically monitor drug pricing.

Baseline price (BLP): Is derived by calculating the mean average for all NDC's (National Drug Code) in a specific product group, determining the standard deviation, and calculating a new mean average using all prices within one standard deviation of the original mean average. "Baseline price" is a drug pricing mechanism developed and updated by First Data Bank.

Bundled codes: When a bundled code is covered, payment for them is subsumed by the payment for the codes or services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient. This service is not separately payable because it is included in the payment for other services such as hospital visits.) Bundled codes and services are identified in the fee schedules.

By report: BR (by report) in the value column of the fee schedules indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative, medical, radiological, laboratory, pathology, or other similar service report) are too unusual, variable, or

complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Surgical procedure(s) and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to the fee schedules;
- (5) Estimated follow-up;
- (6) Operative time;
- (7) Describe in detail any service rendered and billed using an "unlisted" procedure code.

The department or self-insurer may adjust BR procedures when such action is indicated.

Chart notes: This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the services provided. "Chart" means a compendium of medical records on an individual patient. "Record" means dated reports supporting bills submitted to the department or self-insurer for medical services provided in an office, nursing facility, hospital, outpatient, emergency room, or other place of service. Records of service shall be entered in a chronological order by the practitioner who rendered the service. For reimbursement purposes, such records shall be legible, and shall include, but are not limited to:

- (1) Date(s) of service;
- (2) Patient's name and date of birth;
- (3) Claim number;
- (4) Name and title of the person performing the service;
- (5) Chief complaint or reason for each visit;
- (6) Pertinent medical history;
- (7) Pertinent findings on examination;
- (8) Medications and/or equipment/supplies prescribed or provided;
- (9) Description of treatment (when applicable);
- (10) Recommendations for additional treatments, procedures, or consultations;
- (11) X rays, tests, and results; and
- (12) Plan of treatment/care/outcome.

Consultation examination report: The following information must be included in this type of report. Additional information may be requested by the department as needed.

- (1) A detailed history to establish:
 - (a) The type and severity of the industrial injury or occupational disease.
 - (b) The patient's previous physical and mental health.
 - (c) Any social and emotional factors which may effect recovery.
- (2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.
- (3) A detailed physical examination concerning all systems affected by the industrial accident.
- (4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.

(5) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:

(a) Due solely to injury.

(b) Preexisting condition aggravated by the injury and the extent of aggravation.

(c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.

(d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).

(6) Conclusions must include:

(a) Type of treatment recommended for each pathological condition and the probable duration of treatment.

(b) Expected degree of recovery from the industrial condition.

(c) Probability, if any, of permanent disability resulting from the industrial condition.

(d) Probability of returning to work.

(7) Reports of necessary, reasonable X-ray and laboratory studies to establish or confirm the diagnosis when indicated.

Doctor: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and certify time loss compensation except as provided in WAC 296-20-01502, When can a physician assistant have sole signature on the report of accident or physician's initial report? and WAC 296-23-241, Can advanced registered nurse practitioners independently perform the functions of an attending physician?

Emergency hospital admission: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the workers health or treatment outcome.

Endorsing practitioner: A practitioner who has reviewed the preferred drug list and has notified the health care authority that he or she has agreed to allow therapeutic interchange of a preferred drug for any nonpreferred drug in a given therapeutic class.

Fatal: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

Fee schedules or maximum fee schedule(s): The fee schedules consist of, but are not limited to, the following:

(a) Health Care Common Procedure Coding System Level I and II Codes, descriptions and modifiers that describe medical and other services, supplies and materials.

(b) Codes, descriptions and modifiers developed by the department.

(c) Relative value units (RVUs), calculated or assigned dollar values, percent-of-allowed-charges (POAC), or diagnostic related groups (DRGs), that set the maximum allowable fee for services rendered.

(d) Billing instructions or policies relating to the submission of bills by providers and the payment of bills by the department or self-insurer.

(e) Average wholesale price (AWP), baseline price (BLP), and policies related to the purchase of medications.

Health services provider or provider: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, naturopathic physicians, and durable medical equipment dealers.

Home nursing: Those nursing services that are proper and necessary to maintain the worker in his or her residence. These services must be provided through an agency licensed, certified or registered to provide home care, home health or hospice services. Refer to WAC 296-20-091 for more information.

Independent or separate procedure: Certain of the fee schedule's listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

Initial prescription drugs: Any drug prescribed for an alleged industrial injury or occupational disease during the initial visit.

Initial visit: The first visit to a healthcare provider during which the Report of Industrial Injury or Occupational Disease is completed and the worker files a claim for workers compensation.

Medical aid rules: The Washington Administrative Codes (WACs) that contain the administrative rules for medical and other services rendered to workers.

Modified work status: The worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. Workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational

assessment can be conducted to determine whether the worker will require assistance in returning to work.

Nonemergent (elective) hospital admission: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

Physician: For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

Practitioner: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; and massage therapy.

Preferred drug list: The list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.

Proper and necessary:

(1) The department or self-insurer pays for proper and necessary health care services that are related to the diagnosis and treatment of an accepted condition.

(2) Under the Industrial Insurance Act, "proper and necessary" refers to those health care services which are:

(a) Reflective of accepted standards of good practice, within the scope of practice of the provider's license or certification;

(b) Curative or rehabilitative. Care must be of a type to cure the effects of a work-related injury or illness, or it must be rehabilitative. Curative treatment produces permanent changes, which eliminate or lessen the clinical effects of an accepted condition. Rehabilitative treatment allows an injured or ill worker to regain functional activity in the presence of an interfering accepted condition. Curative and rehabilitative care produce long-term changes;

(c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and

(d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

(3) The department or self-insurer stops payment for health care services once a worker reaches a state of maximum medical improvement. Maximum medical improvement occurs when no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. Once a worker's condition has reached maximum medical improvement, treatment that results only in temporary or transient changes is not proper and necessary. "Maximum medical improvement" is equivalent to "fixed and stable."

(4) In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered proper and nec-

essary. Services that are controversial, obsolete, investigational or experimental are presumed not to be proper and necessary, and shall be authorized only as provided in WAC 296-20-03002(6) and 296-20-02850.

Refill: The continuation of therapy with the same drug (including the renewal of a previous prescription or adjustments in dosage) when a prescription is for an antipsychotic, antidepressant, chemotherapy, antiretroviral or immunosuppressive drug, or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks.

Regular work status: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

Temporary partial disability: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to a lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary. **All time loss compensation must be certified by the attending doctor based on objective findings.**

Termination of treatment: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

Therapeutic alternative: Drug products of different chemical structure within the same pharmacologic or therapeutic class and that are expected to have similar therapeutic effects and safety profiles when administered in therapeutically equivalent doses.

Therapeutic interchange: To dispense with the endorsing practitioner's authorization, a therapeutic alternative to the prescribed drug.

Total permanent disability: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

Total temporary disability: Full-time loss compensation will be paid when the worker is unable to return to any

type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

Unusual or unlisted procedure: Value of unlisted services or procedures should be substantiated "by report" (BR).

Utilization review: The assessment of a claimant's medical care to assure that it is proper and necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

AMENDATORY SECTION (Amending WSR 90-04-007, filed 1/26/90, effective 2/26/90)

WAC 296-20-124 Rejected and closed claims. (1) No payment will be made for treatment or medication on rejected claims (~~or for services rendered after the date of claim closure~~) except:

(a) Services which were carried out at the specific request of the department or the self-insurer; or

(b) Examination or diagnostic services which served as a basis for the adjudication decision; or

(c) Initial prescription drugs prescribed during the initial visit for state fund claims.

(2) ~~((When the department or self-insurer has denied responsibility for an alleged injury or industrial condition the only services which will be paid are those which were carried out at the specific request of the department or the self-insurer and/or those examination or diagnostic services which served as a basis for the adjudication decision-))~~ No payment will be made for services rendered after the date of claim closure. Following the date of the order and notice of claim closure, the department or self-insurer will be responsible only for those services specifically requested or those examinations, and diagnostic services necessary to complete and file a reopening application.

(3) Periodic medical surveillance examinations will be covered by the department or self-insurer for workers with closed claims for asbestos-related disease, to include chest X-ray abnormalities, without the necessity of filing a reopening application when such examinations are recommended by accepted medical protocol.

(4) Replacement of prosthetics, orthotics, and special equipment can be provided on closed claims after prior authorization. See WAC 296-20-1102 for further information.

AMENDATORY SECTION (Amending WSR 03-21-069, filed 10/14/03, effective 12/1/03)

WAC 296-20-170 Pharmacy—Acceptance of rules and fees. (1) Acceptance and filling of a prescription for a worker entitled to benefits under the industrial insurance law, constitutes acceptance of the department's rules and fees.

(2) When there is questionable eligibility, (i.e., no claim number, prescription is for medication other than usually prescribed for industrial injury; or pharmacist has reason to believe claim is closed or rejected), the pharmacist may require the worker to pay for the prescription.

~~((In these cases,))~~ (a) The pharmacist must furnish the worker with a signed receipt and a nonnegotiable copy of the

prescription including national drug code and quantity or a completed department pharmacy bill form signed in the appropriate areas verifying worker has paid for the prescribed item(s) in order for the worker to bill the department or self-insurer for reimbursement.

(b) The worker may not be charged more than the amount allowable by the department or self-insurer.

(c) The worker must submit such reimbursement request within one year of the date of service.

See WAC 296-20-020 for details on providing a refund.

(3) Pharmacies may bill the department for initial prescription drugs prior to claim acceptance upon the presentation to the pharmacy of a state fund identification card or a copy of the *Report of Industrial Injury or Occupational Disease*.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-17001 Allowance and payment for medication. (1) The department or self-insurer will pay for medications or supplies dispensed for the treatment of conditions resulting from an industrial injury and/or conditions which are retarding the recovery from the industrial injury, for which the department or self-insurer has accepted temporary responsibility.

(2) Approved generic are to be substituted for brand name pharmaceuticals in all cases unless the worker's condition will not tolerate a generic preparation and the prescribing physician indicates no substitution is permitted. A list of approved generics and their base cost will be published periodically by the department.

(3) Items not normally paid include: Syringes, injectables, heating pads, vibrators, personal appliances, oral nutritional supplements, anorexiant, and medications normally prescribed for systemic conditions. These items may be authorized to certain individuals in unusual circumstances; prior approval from the department or self-insurer is mandatory.

(4) Rental or purchase of medical equipment must be prior authorized by the department or self-insurer.

(5) No ~~((bills))~~ payment will be ~~((paid))~~ made for medication dispensed after the date of the order and notice of claim closure ~~((, on an accepted claim; nor, on rejected claims; nor))~~ or rejection or for conditions unrelated to the industrial ~~((condition))~~ injury or occupational disease except for initial prescription drugs prescribed during the initial visit for state fund claims.

NEW SECTION

WAC 296-20-17004 Billing and payment for initial prescription drugs. (1) Pharmacies may bill the department for initial prescription drugs prior to claim acceptance upon the presentation to the pharmacy of a state fund identification card or a copy of the *Report of Industrial Injury or Occupational Disease* with a valid claim number.

(2) The department will pay pharmacies or reimburse the worker for initial prescription drugs prescribed during the initial visit except when the prescription is:

(a) A second or subsequent filling of the initial prescription drugs prescribed for the same industrial injury or occupational disease prior to claim acceptance; or

(b) Associated with a self-insurer claim.

(3) Payment for initial prescription drugs shall be in accordance with the department's fee schedule including, but not limited to screening for drug utilization review (DUR) criteria, the preferred drug list (PDL) provision and formulary status.

WSR 08-02-022
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 21, 2007, 1:11 p.m., effective February 1, 2008]

Effective Date of Rule: February 1, 2008.

Purpose: The department is repealing the existing chapter 388-101 WAC, Certified community residential services and support and is adopting new chapter 388-101 WAC, Certified community residential services and support. See Reviser's note below.

Citation of Existing Rules Affected by this Order: See Reviser's note below.

Statutory Authority for Adoption: Chapter 71A.12 RCW.

Adopted under notice filed as WSR 07-18-094 on September 5, 2007.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

A final cost-benefit analysis is available by contacting John Gaskell, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-3210, fax (360) 438-7903, e-mail gaskejw@dshs.wa.gov. The cost-benefit analysis was not changed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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 136, Amended 0, Repealed 107.

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 136, Amended 0, Repealed 107.

Date Adopted: December 21, 2007.

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 08-04 issue of the Register.

WSR 08-02-046
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed December 27, 2007, 9:44 a.m., effective January 27, 2008]

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

Purpose: The purpose of this proposal is to adopt a new WAC chapter to implement chapter 41.37 RCW, Washington Public Safety Employees' Retirement System (PSERS). Chapter 41.37 RCW took effect on July 1, 2006. PSERS is a retirement system for public employees whose jobs contain a high degree of physical risk to their own personal safety. The department needs to implement rules for this new retirement system to assist plan members, retirees, employers and department staff.

Statutory Authority for Adoption: For WAC 415-106-010 and 415-106-200 is RCW 41.50.050(5) and chapter 41.37 RCW; for WAC 415-106-050, 415-106-060, 415-106-070, 415-106-290 and 415-106-295 is RCW 41.50.050(5) and chapter 41.37 RCW and IRS regulations; for WAC 415-106-080 is RCW 41.50.050(5) and chapters 41.37, 41.45, and 41.50 RCW; for WAC 415-106-100 is RCW 41.50.050(5) and 10.93.020, 41.04.270, 41.37.010 (4) and (5), 41.37.020; for WAC 415-106-105 is RCW 41.50.050(5) and 41.37.010(4); for WAC 415-106-110 is RCW 41.50.050(5) and chapters 41.37 and 41.45 RCW, and RCW 41.40.113; for WAC 415-106-205, 415-106-210, 415-106-215, 415-106-220, 415-106-225, 415-106-230, 415-106-235, 415-106-240, 415-106-245, 415-106-250, 415-106-255, 415-106-275, 415-106-285 and 415-106-315 is RCW 41.50.050(5) and 41.37.010(6); for WAC 415-106-260, 415-106-265 and 415-106-280 is RCW 41.50.050(5) and 41.37.260; for WAC 415-106-270 is RCW 41.50.050(5) and 27.04.100, 41.04.650 through 41.04.670, 41.37.010(6), 41.37.060, 72.01.045, and 72.09.240; for WAC 415-106-300 is RCW 41.50.050(5) and 41.37.010(6) and IRS regulations; for WAC 415-106-305, 415-106-310, 415-106-320 and 415-106-325 is RCW 41.50.050(5); for WAC 415-106-330 is RCW 41.50.050(5) and 41.50.150 and IRS regulations; for WAC 415-106-400 and 415-106-401 is RCW 41.50.050(5) and 41.37.020(2); for WAC 415-106-405 is RCW 41.50.050(5) and 41.37.020(2) and 41.37.210; for WAC 415-106-500 is RCW 41.50.050(5) and 41.37.010(4), 41.37.090(3), 41.37.100, 41.37.200, 41.37.230, 41.50.165, and chapter 41.54 RCW; for WAC 415-106-600 is RCW 41.37.170 and 41.50.050(5) and 41.37.050, 41.37.170, 41.37.210, 41.37.230, and 41.50.790; for WAC 415-106-610 is RCW 41.50.050(5) and 41.37.170 and 41.50.790; for WAC 415-106-620 is RCW 41.50.050(5) and 41.37.190; for WAC 415-106-700 is RCW 41.50.050(5) and 41.37.050, 41.50.130, chapters 41.32, 41.35, and 41.40 RCW; for WAC 415-106-710 is RCW 41.50.050(5) and 41.37.050, 41.37.180, and 41.37.190; and for WAC 415-106-900 is RCW 41.50.050(5) and 41.37.250.

Adopted under notice filed as WSR 07-22-101 on November 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 45, 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 45, Amended 0, Repealed 0.

Date Adopted: December 27, 2007.

Sandra J. Matheson
Director

Chapter 415-106 WAC

PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM

DEFINITIONS

NEW SECTION

WAC 415-106-010 Definitions. The definitions in RCW 41.37.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.37 RCW are defined in this chapter.

(1) **AFC** means average final compensation as defined in RCW 41.37.010(14).

(2) **Employer** means the state or local government entities as defined in RCW 41.37.010(4) employing members eligible for PSERS.

(3) **Full-time employee** means an employee who is regularly scheduled to provide at least one hundred sixty hours of compensated service for an employer each calendar month.

(4) **LEOFF** means the law enforcement officers' and fire fighters' retirement system.

(5) **PERS** means the public employees' retirement system.

(6) **PSERS** means the public safety employees' retirement system.

(7) **Reportable compensation** means compensation earnable as that term is defined in RCW 41.37.010(6).

(8) **SERS** means the school employees' retirement system.

(9) **TRS** means the teachers' retirement system.

(10) **WSPRS** means the Washington state patrol retirement system.

(11) **County corrections department** means any subsection or unit of a county employing correctional employees.

(12) **City corrections department** means any subsection or unit of a city employing correctional employees.

ADMINISTRATION

NEW SECTION

WAC 415-106-050 How does the department comply with Internal Revenue Code distribution rules? (1) This section applies only to the public safety employees' retirement system (PSERS).

(2) All benefits paid from the PSERS retirement plan shall be distributed in accordance with the requirements of IRC section 401 (a)(9) and the regulations under that section. In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:

(a) Distribution of a member's benefit must begin by the later of the April 1 of the year following the calendar year in which a member attains age seventy and one-half or the April 1 of the year following the calendar year in which the member retires;

(b) The member's entire benefit must be distributed over the member's life or the lives of the member and a designated beneficiary;

(c) The life expectancy of a member or the member's spouse or beneficiary may not be recalculated after the benefits commence;

(d) If a member dies before the distribution of the member's benefits has begun, distribution of the member's entire interest must be distributed in accordance to IRC section 401 (a)(9) and the regulations implementing that section. Distributions must occur over the life expectancy of the designated beneficiary and must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died;

(e) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Federal Internal Revenue Code; and

(f) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as under the method of distribution being used for the member as of the date of the member's death. Death benefits must be distributed in accordance with IRC section 409 (a)(9) and the regulations implementing that section.

(3) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to IRC section 401 (a)(31).

(a) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(ii) Any distribution to the extent such distribution is required under IRC section 401 (a)(9);

(iii) The portion of any distribution that is not includible in gross income; and

(iv) Any other distribution that is reasonably expected to total less than two hundred dollars during the year.

(b) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, effective for taxable years beginning prior to January 1, 2007, this portion may be paid only to an individual retirement account or annuity described in IRC section 408 (a) or (b), or to a qualified defined contribution plan described in IRC section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Provided, however, effective for taxable years beginning after December 31, 2006, this portion may be paid only to:

(i) An individual retirement account or annuity described in IRC section 408 (a) or (b);

(ii) A qualified defined contribution plan described in IRC section 401(a);

(iii) A qualified plan described in IRC section 403(a);

(iv) A qualified defined benefit plan described in IRC section 401(a); or

(v) An annuity contract described in IRC section 403(b), and such trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(c) An eligible retirement plan for a distributee is:

(i) An individual retirement account described in IRC section 408(a);

(ii) An individual retirement annuity described in IRC section 408(b);

(iii) An annuity plan described in IRC section 403(a);

(iv) A qualified trust described in IRC section 401(a), that accepts the distributee's eligible rollover distribution;

(v) An annuity contract described in IRC section 403(b);

(vi) An eligible plan under IRC section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan; or

(vii) Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in IRC section 408A.

(d) The definition of eligible retirement plan in (c) of this subsection shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p).

(e) A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse.

(f) A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(g) Effective for distributions after December 31, 2006, if, with respect to any distribution from the account of a deceased PSERS member, a direct trustee-to-trustee transfer is made to an individual retirement plan (an individual retirement account or annuity described in IRC section 408 (a) or (b)) established to receive distributions for the designated beneficiary of the deceased PSERS member, and the designated beneficiary is not the surviving spouse, then:

(i) The transfer shall be treated as an eligible rollover distribution;

(ii) The individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of IRC 408 (d)(3)(C)); and

(iii) The distribution requirements of IRC section 401 (a)(9)(B) (other than clause (iv) thereof), as clarified by IRS Notice 2007-7 for this purpose, shall apply to the individual retirement plan.

To the extent provided in federal regulations, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.

NEW SECTION

WAC 415-106-060 What are the IRS limitations on maximum benefits and maximum contributions? (1) This section applies only to the public safety employees' retirement system (PSERS). Subject to the provisions of this section, benefits paid from, and employee contributions made to, the plan shall not exceed the maximum benefits and the maximum annual addition, respectively, as applicable under IRC section 415.

(2) A participant may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415 (b)(1)(A), subject to the applicable adjustments in IRC section 415. For purposes of applying IRC 415(b) when a participant retires before age sixty-two or after age sixty-five, the determination as to whether the benefit satisfies IRC section 415(b) limitations is made by comparing the equivalent annual benefit, determined in Step 1, (a) of this subsection, with the age-adjusted dollar limit, determined in Step 2, (b) of this subsection. The plan will satisfy IRC section 415(b) limitations only if the equivalent annual benefit determined in Step 1 is less than the age-adjusted dollar limit determined in Step 2.

(a) **Step 1:** Under IRC 415 (b)(2)(B), determine the annual benefit in the form of a straight life annuity commencing at the same age that is actuarially equivalent to the plan benefit. In general, IRC 415 (b)(2)(E)(i) and (v) require that the equivalent annual benefit be the greater of (a)(i) or (ii) of this subsection. This step applies only to a benefit that is required to be converted to a straight life annuity under IRC section 415 (b)(2)(B), for example, a qualified joint and survivor annuity.

(i) The equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of

benefit payable (plan rate and plan mortality table, or plan tabular factor, respectively).

(ii) The equivalent annual benefit computed using a five percent interest rate assumption and the applicable mortality table.

(b) **Step 2:** Under IRC 415 (b)(2)(C) or (D), determine the IRC 415(b) dollar limitation that applies at the age the benefit is payable (age-adjusted dollar limit).

(i) If the age at which the benefit is payable is less than sixty-two, the age-adjusted dollar limit is determined by reducing the dollar limit on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the age-adjusted dollar amount be the lesser of (b)(i)(A) or (B) of this subsection.

(A) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(B) The amount computed using five percent interest and the applicable mortality table described in the Federal Internal Revenue Service's (IRS) Revenue Ruling 2001-62. (This is used only to the extent described in Q&A 6 of Revenue Ruling 98-1. Q&A 6 states that for purposes of adjusting any limitation under IRC 415 (b)(2)(C) or (D), if forfeiture does not occur upon death, the mortality decrement may be ignored prior to age sixty-two and must be ignored after the Federal Social Security Retirement Age.)

(ii) If the age at which the benefit is payable is greater than age sixty-five, the age-adjusted dollar limit is determined by increasing the IRC section 415(b) dollar limitation on an actuarially equivalent basis. In general, IRC 415 (b)(2)(E)(i) and (v) require that the increased age-adjusted dollar limit be the lesser of (b)(ii)(A) or (B) of this subsection.

(A) The equivalent amount computed using the plan rate and plan mortality table (or plan tabular factor) used for actuarial equivalence for early retirement benefits under the plan.

(B) The equivalent amount computed using five percent interest and the applicable mortality table (used to the extent described in Q&A 6, as described in the prior paragraph).

The dollar limit will be reduced proportionally for less than ten years of participation. For example, if you have five years of service the IRC section 415(b) limit is reduced to 5/10 (fifty percent) of the limit.

(3) The maximum annual addition that may be contributed or allocated to a participant's account for any limitation year may not exceed the lesser of:

(a) Forty thousand dollars, which limit shall be adjusted for increases in the cost-of-living under IRC section 415(d); or

(b) One hundred percent of the member's compensation, within the meaning of IRC section 415 (c)(3), for the limitation year.

(4) Notwithstanding any other provision of law to the contrary, the department may modify a request by a participant to make a contribution to the retirement plan if the amount of the contributions would exceed the limits under IRC section 415(c) or 415(n).

(5) The definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with IRC section 415 includes the

amount of any elective deferral, as defined in IRC section 402 (g)(3), or any contribution which is made or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC sections 125, 132 (f)(4), or 457, but excludes member contributions picked under IRC section 414 (h)(2).

(6) The annual compensation taken into account in calculating retiree benefits under this system must not exceed the limits imposed by IRC section 401 (a)(17) for qualified trusts. This limitation shall be adjusted for cost of living increases in accordance with IRC section 401 (a)(17)(B).

NEW SECTION

WAC 415-106-070 Assets for exclusive benefit of members and beneficiaries. No assets of the public safety employees' retirement system may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

NEW SECTION

WAC 415-106-080 Actuarial tables, schedules, and factors. See chapter 415-02 WAC starting with WAC 415-02-300 for the tables, schedules, and factors the department uses for calculating optional retirement allowances for PSERS members.

MEMBERSHIP

NEW SECTION

WAC 415-106-100 Am I eligible for PSERS membership? On or after July 1, 2006, you are eligible for PSERS membership according to the provisions in this section.

(1) Subject to the exceptions in subsection (2) of this section, you will be a PSERS member on the date you become employed in a full-time position for an employer as defined in WAC 415-106-010, provided one or more of the following applies:

(a) The position requires completion of a certified criminal justice training course and you are authorized by your employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job.

(b) Your primary responsibility is to ensure the custody and security of incarcerated or probationary individuals.

(c) You are a limited authority Washington peace officer, as defined in RCW 10.93.020.

(d) Your primary responsibility is to supervise members eligible under this section.

(2) You are exempt from PSERS membership if:

(a) One or more of the exemptions in RCW 41.37.020 apply to you;

(b) You are a retirement system retiree, estopped from membership under RCW 41.04.270;

(c) You are, or have been, a PERS Plan 1 member; or

(d) You were a PERS Plan 2 or 3 member on July 1, 2006, and are not required to join PSERS membership according to WAC 415-106-110.

NEW SECTION

WAC 415-106-105 May I join PSERS if my duties qualify for PSERS membership, but my employer is not specifically listed in WAC 415-106-010(2)? You do not qualify for membership unless your department or agency is specifically listed in WAC 415-106-010(2), even if your employer employs one or more elected or appointed officials who are PSERS members.

NEW SECTION

WAC 415-106-110 If I am a member of PERS, may I change my membership to PSERS? You may have the right to change your retirement system membership from PERS to PSERS according to the requirements in this section.

(1) You may change retirement system membership from PERS to PSERS if:

(a) You were a member of either PERS Plan 2 or Plan 3 prior to July 1, 2006; and

(b) On July 1, 2006, you meet the requirements for membership in WAC 415-106-100.

(2) If you meet the conditions in subsection (1) of this section and wish to change membership from PERS to PSERS, you must submit a properly completed election form to your employer during the election period that begins on July 1, 2006, and ends on September 30, 2006.

(3) Your change in membership is prospective only.

(a) You become a member of PSERS on the election date shown on your election form.

(b) You will become a dual member of PSERS and PERS. All service credit and compensation previously reported in PERS will remain in PERS. Your retirement benefits will be governed by the dual member "portability" provisions in chapters 41.54 RCW and 415-113 WAC.

(4) If you meet the conditions in subsection (1) of this section and do not change membership to PSERS on or before September 30, 2006, you may not become a member of PSERS while you continue employment with the same employer. However, if you terminate your employment with the employer with whom you were employed on July 1, 2006, and become employed in a PSERS eligible position with another employer after July 1, 2006, you will be mandated into PSERS membership.

REPORTABLE COMPENSATION

NEW SECTION

WAC 415-106-200 Purpose and scope of reportable compensation rules. WAC 415-106-205 through 415-106-330 codify the department's interpretation of statutes and administrative practice regarding classification of payments received by members. The department applies these rules to all payments.

NEW SECTION

WAC 415-106-205 What is reportable compensation? Reportable compensation is subject to retirement sys-

tem contributions and is used in the calculation of your retirement benefit.

(1) The department determines whether payments you receive are reportable compensation based on the nature of the payment, not the name of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of "compensation earnable" in RCW 41.37.010(6). It must:

(a) Be paid to you by an employer as a salary or wage for services you provided; or

(b) Qualify as reportable compensation under chapter 41.37 RCW or this chapter.

(2) Your employer must report all of your reportable compensation to the department. Your employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: Bill is paid in July for work performed during June. The employer must report his compensation to the department as "June earnings."

NEW SECTION

WAC 415-106-210 What types of payments are considered reportable compensation? The following table indicates whether certain types of payments are reportable compensation under PSERS, and provides a cross-reference to the applicable WAC.

Type of Payment	PSERS Reportable Compensation?
Annual leave cash outs	No - WAC 415-106-255
Assault pay (state employees)	Yes - WAC 415-106-270
Base rate	Yes - WAC 415-106-215
Cafeteria plans	Yes - WAC 415-106-290
Deferred wages	Yes - WAC 415-106-300
Disability insurance payments	No - WAC 415-106-275
Disability: Salary imputed while on duty-disability leave	Yes - WAC 415-106-270
Employer provided vehicle	No - WAC 415-106-325
Employer taxes/contributions	No - WAC 415-106-300
Fringe benefits, including insurance	No - WAC 415-106-295
Illegal payments	No - WAC 415-106-305
Legislative leave	Yes - WAC 415-106-285
Longevity/education attainment pay	Yes - WAC 415-106-215
Nonmoney compensation	No - WAC 415-106-315
Optional payments	No - WAC 415-106-310
Overtime payments	Yes - WAC 415-106-220
Performance pay	Yes - WAC 415-106-230

Type of Payment	PSERS Reportable Compensation?
Paid leave	Yes - WAC 415-106-260
Reimbursements	No - WAC 415-106-320
Reinstatement payments	Yes - WAC 415-106-240
Retirement or termination bonus	No - WAC 415-106-235
Retroactive salary increase	Yes - WAC 415-106-245
Severance pay	No - WAC 415-106-250
Shared leave (state employees)	Yes - WAC 415-106-270
Sick leave cash outs	No - WAC 415-106-255
Standby pay	Yes - WAC 415-106-225
Time off with pay	Yes - WAC 415-106-255
Union leave ¹	Yes - WAC 415-106-265
Unpaid leave ²	Yes - WAC 415-106-280
Vehicle allowances	No - WAC 415-106-330

¹Only specific types of union leave are reportable. See WAC 415-106-265.

²Only the unpaid leave specified in WAC 415-106-280(2) will be used in the calculation of your AFC.

NEW SECTION

WAC 415-106-215 Are salary increases based on longevity or educational attainment considered reportable compensation? Most employees receive a base rate of salary or wages expressed as an hourly or monthly rate of pay. This payment is for services you provide and qualifies as reportable compensation. Your rate of salary may be based in part on longevity or educational attainment.

(1) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education.

(2) Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable compensation.

NEW SECTION

WAC 415-106-220 Are overtime payments reportable compensation? Overtime is additional pay you earn for working time in excess of your regularly scheduled shift, and is reportable compensation. Some examples of overtime are:

(1) **Additional pay for working on a holiday.** If you receive an extra payment for working on a scheduled holiday, the payment is overtime. Your employer may make the additional payment when the holiday occurs or in a lump sum at some other time.

Example: Bill works on Christmas day. He is given the option of taking another day off with pay or

receiving an extra day's pay. If he opts for the extra pay, the payment is overtime and is reportable compensation. If he takes another day off in lieu of the extra pay, it is paid leave and also qualifies as reportable compensation.

(2) **Callback pay.** If your employer offers you a special rate of pay for returning to work when called after the end of your regular shift, it is overtime.

(3) **Court pay.** If you receive an additional payment for appearing in court or performing other duties outside your regularly scheduled shift, it is overtime.

NEW SECTION

WAC 415-106-225 Is standby pay reportable compensation? Standby means you are required by your employer to be prepared to report immediately for work if the need arises, although the need may not arise. According to RCW 41.37.010 (6)(b)(vi):

(1) The pay you receive for being on standby qualifies as reportable compensation; however

(2) The time you spend on standby is not counted toward service credit and is not reported to the department by your employer.

NEW SECTION

WAC 415-106-230 Is performance pay reportable compensation? Performance pay for meeting certain performance goals is reportable compensation because it is paid for services provided. Employers must document the dates over which the performance pay is earned, and provide that information if requested by the department.

Example: An employer offers each employee in a work group an additional \$100 if the work group has no work-related accidents during the upcoming year. Remaining accident free is a performance goal. Therefore the payment will be for services provided and will qualify as reportable compensation.

NEW SECTION

WAC 415-106-235 Is a retirement bonus or incentive reportable compensation? A payment made as a bonus or incentive to retire is not a payment for services provided, and is not reportable compensation.

Example: A collective bargaining agreement authorizes a city to pay employees a higher salary during the last two years of employment if the employee gives written notice of intent to retire or terminate. Because the payment is in exchange for the agreement to retire or terminate and not for services, the payment is not reportable compensation.

NEW SECTION

WAC 415-106-240 Are payments for reinstatement or payment instead of reinstatement reportable compensation? (1) Payments you receive upon reinstatement or instead of reinstatement are reportable compensation to the

extent they are equivalent to the salary you would have earned by working in your position. RCW 41.37.010 (6)(b) (i) defines these payments as reportable compensation even though they are not payments for services you provided to your employer. The payment will be prorated over the entire period you were suspended, terminated, or otherwise absent from work.

(2) For purposes of this section, "reinstatement" means that you are entitled to return to full employment rights by action of either:

- (a) The employer; or
- (b) A personnel board, personnel appeals board or court of law.

NEW SECTION

WAC 415-106-245 Are retroactive salary increases reportable compensation? A retroactive salary increase occurs when your rate of pay is increased and made retroactive to a prior date. You receive a lump sum payment to cover the increase earned during the earlier period.

(1) To qualify as reportable compensation under this section, the retroactive salary increase must be made pursuant to:

- (a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;
- (b) A bona fide settlement of a claim before a court or administrative agency for a retroactive salary increase;
- (c) A collective bargaining agreement; or
- (d) Action by a personnel resources board which expressly states the payments are retroactive.

(2) Your employer must report compensation for the month in which it was earned.

NEW SECTION

WAC 415-106-250 Is severance pay reportable compensation? Severance pay, whether or not it is earned over time, is not reportable compensation. See RCW 41.37.010 (6)(a).

NEW SECTION

WAC 415-106-255 Is sick leave or vacation leave, whether used or cashed out, reportable compensation?

(1) **Sick and annual leave (used).** Most PSERS members earn a certain number of sick leave and annual leave hours per month. These leave hours are earned by providing service during the month in which the leave accrues. The payment you receive when you use an earned leave day is reportable compensation.

(2) **Sick and annual leave cash outs.** Under RCW 41.37.010 (6)(a), sick and annual leave cash outs are not reportable compensation.

NEW SECTION

WAC 415-106-260 Is paid leave, which is not earned over time, reportable compensation? To the extent authorized by RCW 41.37.260, payment you receive from your

employer while on an authorized paid leave of absence is reportable compensation provided that:

(1) The payment does not exceed the salary for the position from which you are on leave; and

(2) The payment is received from the employer, not from a third party. Except as provided in WAC 415-106-265, if you receive the payment from your employer, but your employer is reimbursed for the payment by a third party, the payment is not reportable compensation.

NEW SECTION

WAC 415-106-265 Is the pay I receive from my employer when I am on union leave reportable compensation? If you take an authorized leave of absence to serve as an elected official of a labor organization and you receive payment from your employer during your leave, the payment may be reportable compensation even if the union reimburses your employer. To qualify as reportable compensation, the payment must meet the specific conditions of RCW 41.37.-260(2).

NEW SECTION

WAC 415-106-270 Is compensation for periods of absence due to sickness or injury reportable compensation? Compensation you receive for periods of absence due to sickness or injury, which is not covered by earned sick leave, qualifies as reportable compensation only as authorized by RCW 41.37.010(6) and this section.

(1) **Assault pay** qualifies as reportable compensation to the extent authorized by RCW 27.04.100, 72.01.045, and 72.09.240.

(2) **Duty disability.** You may make contributions and receive up to twelve consecutive months of service credit for periods of disability covered by Title 51 RCW or similar federal workers' compensation program as provided in RCW 41.37.060. In this case, the compensation you would have received but for the disability qualifies as reportable compensation to the extent authorized by RCW 41.37.060.

(3) **Shared leave.**

(a) If you are a state employee, as defined in RCW 41.04.655, the compensation you receive due to participation in a leave-sharing program qualifies as reportable compensation to the extent authorized by RCW 41.04.650 through 41.04.670.

(b) If you are not a state employee, shared leave payments are not specifically authorized by RCW 41.37.010(6) and do not qualify as reportable compensation.

NEW SECTION

WAC 415-106-275 Are disability insurance or workers' compensation payments reportable compensation?

(1) Disability insurance payments are not reportable compensation, whether the payments come directly from your employer or from an insurance company.

(2) Workers' compensation payments are not reportable compensation.

Example: Susan, an employee on unpaid disability leave, submits her workers' compensation payments to her employer. The employer then issues Susan a check for the same amount through the payroll system. Even though the payment may have the appearance of compensation from the employer, it is not a payment for services provided and is not reportable compensation.

(3) See WAC 415-106-270 for information about service credit and imputed compensation for periods of duty disability.

NEW SECTION

WAC 415-106-280 Will the compensation that is imputed to periods of unpaid leave be used in the calculation of my AFC? (1) **Authorized unpaid leave.** If you establish service credit under RCW 41.37.260 for periods of unpaid leave, the compensation imputed to the period of time you are on leave will not be included in your AFC. See WAC 415-02-175.

(2) **Military leave.** If you purchase service credit for a period of interruptive military service and that period falls in your AFC period, federal law entitles you to have the salary you would have earned during that time period used in the calculation of your AFC.

NEW SECTION

WAC 415-106-285 Is the pay I receive while on legislative leave reportable compensation? If you take leave without pay from an eligible PSERS position to serve in the legislature, you may elect to participate in PSERS as a legislator.

For any year in which you serve in the legislature, you may choose that your reportable compensation be either:

- (1) The reportable compensation you would have earned had you not served in the legislature; or
- (2) The compensation you actually received for nonlegislative public employment and the legislative service combined.

If you choose the option in subsection (1) of this section, you must pay the additional employer and employee contributions to the extent the compensation reported is higher than it would have been under subsection (2) of this section.

NEW SECTION

WAC 415-106-290 Is compensation applied toward cafeteria plans reportable compensation? Compensation you receive and apply toward a benefit plan under Internal Revenue Code (IRC) section 125 is reportable compensation if you have an absolute right to receive cash or deferred cash payments instead of participating in the plan. If there is no cash option, the value of participating in the plan is not reportable compensation. See WAC 415-106-295.

NEW SECTION

WAC 415-106-295 Are fringe benefits reportable compensation? Fringe benefits provided by an employer are not a salary or wage, and are not reportable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; and
- (3) Any employer payments into a private fund to provide health or welfare benefits for you or your dependents, with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-106-290.

NEW SECTION

WAC 415-106-300 Are payroll deductions reportable compensation? Amounts withheld from your salary or wages are reportable compensation. Examples include:

- (1) Your member contributions to PSERS. Your employer's contributions are a fringe benefit and are not reportable compensation. See WAC 415-106-295.
- (2) Amounts withheld for federal income tax purposes; and
- (3) Other authorized voluntary deductions, such as deferred compensation or IRC section 457 plan contributions.

NEW SECTION

WAC 415-106-305 Are payments, which are outside my employer's legal authority, reportable compensation? Payments made by an employer that go beyond the employer's legal authority are not reportable.

NEW SECTION

WAC 415-106-310 Are optional payments reportable compensation? If you receive an additional payment only on the condition of taking an action other than providing service to your employer, the payment is not reportable compensation.

Example: An employer offers to make a contribution to Joe's deferred compensation plan only if Joe agrees to have a portion of his salary deferred. Because Joe does not have a right to receive the contribution based solely on providing service, the payment is not reportable compensation.

NEW SECTION

WAC 415-106-315 Are nonmoney payments from my employer reportable compensation? Nonmoney compensation is compensation legally provided to you in a form other than money. Examples include: Living quarters, food, board, equipment, clothing, laundry, transportation, fuel and utilities. The value of nonmoney maintenance compensation you receive from your employer is not reportable compensation.

NEW SECTION

WAC 415-106-320 Are reimbursements for business expenses reportable compensation? Reimbursements are not reportable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, or meal and lodging reimbursements for business trips.

NEW SECTION

WAC 415-106-325 Vehicles—Is the value of my use of an employer's vehicle reportable compensation? The value of an employer-provided vehicle is not reportable compensation.

NEW SECTION

WAC 415-106-330 Are vehicle allowances reportable compensation? (1)(a) A vehicle allowance is not reportable compensation if it is received in lieu of expenses you incur or expect to incur in using your own vehicle for business purposes.

(b) A vehicle allowance qualifies as reportable compensation to the extent that it exceeds your actual expenses. For instance, if you receive both a vehicle allowance and separate reimbursements for vehicle expenses each time you use a privately owned vehicle for business purposes, the vehicle allowance is reportable compensation.

(2) To prove that your vehicle allowance exceeded your actual expenses, your employer must maintain ongoing monthly records, documenting:

(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;

(b) The miles you drove the vehicle on each of these trips;

(c) Your itinerary for each of these trips; and

(d) The amount of the allowance less the actual expenses, using IRS methodology. Under the IRS methodology, your actual expenses are the miles you drove multiplied by the IRS rate.

(i) The miles you drove are the number of miles you drove a privately owned vehicle for business purposes during the month.

(ii) "IRS rate" means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(3) If a vehicle allowance exceeds actual expenses, your employer must report the excess, calculated in subsection (2)(d) of this section.

(4) If any part of a vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150.

ELECTED AND APPOINTED OFFICIALSNEW SECTION

WAC 415-106-400 If I establish PSERS membership and now hold a state elective position, may I continue to accrue service credit in PSERS? If you are an active

PSERS member and are elected or appointed by the governor to a state elective position, you have the option to continue as a contributing member of PSERS, as limited by the requirements in this section.

(1) You must submit a written application directly to the department.

(2) If you submit your application before your service in a state elective position starts:

(a) Your employee contributions will be deducted from your compensation for your elective service.

(b) Except as provided in WAC 415-106-285, your employer(s) will pay the required employer contributions.

(3) If you submit your application mid-term (after your service in a state elective position has started):

(a) You and your employer will begin making contributions according to subsection (2) of this section.

(b) You must establish service credit for the prior portion of your current term by paying the employee contributions plus interest. Your employer must pay the required employer contributions plus interest.

(4) If you submit your application after your service in a state elective position has been completed, you must pay the required employee and employer contributions for the service credit with interest as determined by the department. Your former employer, at its discretion, may pay the required employer contributions plus interest.

(5) If you work in a PSERS eligible position at the same time you accrue service credit in a state elective position:

(a) Employee contributions will be deducted from your compensation for your service in the PSERS position and in the state elective position; and

(b) Both employers will make employer contributions.

(6) You will earn one service credit month for each calendar month during which you provide service in a state elective position. If you provide concurrent service in a PSERS eligible position, you will not receive additional service credit for that service.

(7) Once you start to accrue service credit in PSERS for a state elective position you must remain an active PSERS member until:

(a) You separate from all eligible public employment. You are not separated from eligible public employment if:

(i) You are reelected or reappointed to a successive term or terms of office; or

(ii) You resign from your state elective position and later resume service in the same state elective position during the same term.

(b) You retire from PSERS, whether or not you continue to serve in your elective position. See WAC 415-106-405.

(8) A state elective position is any position held by any person:

(a) Elected or appointed to a statewide office; or

(b) Elected or appointed as a member of the legislature.

NEW SECTION

WAC 415-106-401 If I hold a state elective position before establishing PSERS membership, may I establish service credit for my prior service in the state elective position? If you held a state elective position before you

established PSERS membership, you have the option to establish service credit for the time you served in the state elective position as limited by the following requirements:

(1) You must be an active PSERS member at the time you submit your application.

(2) The term of office must have begun on or after July 1, 2006.

(3) You must submit a written application directly to the department.

(4) You must pay the required employee and employer contributions for the service credit with interest as determined by the department. Your former employer, at its discretion, may pay the employer contributions plus interest.

(5) You must establish service credit for a full term of office. You may not establish service for only a portion of your term in office. However, if you served multiple terms, you are not required to establish service credit for all of the terms served.

NEW SECTION

WAC 415-106-405 May I retire from PSERS while holding a state elective position? (1) If you are holding a state elective position and accruing PSERS service credit for your service in that position, you may retire from PSERS and continue to work in your elective position provided:

(a) You are eligible to retire under RCW 41.37.210;

(b) You submit a written statement to the department, waiving the right to earn PSERS service credit for any future period of service in a state elective position; and

(c) Your compensation in the state elective position is fifteen thousand dollars or less per year, adjusted annually for inflation by the director. See subsection (2) of this section.

(2) The compensation threshold in subsection (1)(c) of this section is adjusted on April 1 of each year, based on the average consumer price index for Seattle for the previous calendar year. Effective April 2006, the threshold is \$21,551. You may contact the department for the threshold in effect for subsequent years.

DISABILITY BENEFITS

NEW SECTION

WAC 415-106-500 PSERS disability benefits. This section covers disability benefits provided for in RCW 41.37.230. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on-the-job or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for disability benefits if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other PSERS position for which

you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as a monthly disability allowance?**

(a) If you have at least ten years of service credit in PSERS, you will receive a monthly allowance equal to two percent of your AFC times your service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age **sixty**. Your monthly allowance may be further reduced to offset the cost of the benefit option you choose. See WAC 415-106-600.

(b) If you have less than ten years of service credit, you will receive a monthly allowance¹ equal to two percent of your AFC times your service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age **sixty-five**. Your monthly allowance may be further reduced to offset the cost of the benefit option you choose. See WAC 415-106-600.

¹*You may choose to receive a lump sum payment instead of a monthly allowance if your initial monthly allowance will be less than fifty dollars. See RCW 41.37.200.*

See WAC 415-02-320 for early retirement factors and examples.

(3) **How do I apply?**

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete and sign the application. If you are married, your spouse must sign consent to the benefit option you select. You, and your spouse if you are married, must have your signatures notarized.

(ii) **Part 2:** Employer's statement and report. Your employer must complete and sign Part 2, and return it directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return it directly to the department. You are responsible for all medical expenses related to your application for benefits. A copy of your job description must be provided to the physician at time of examination.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(4) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(5) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, you should request a benefit estimate from the department, as there may be a difference in the dollar amount of your monthly allowance.

(6) Once my application is approved, when will my monthly allowance begin?

(a) Your disability allowance will accrue from the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PSERS employment.

(i) If you are continuing to perform the duties of your position or another PSERS position, you may reapply for disability benefits according to subsection (3) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

(7) What are my options if my application is denied?

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PSERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(8) Are my disability benefits taxable? You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(9) Are disability benefits subject to court or administrative orders? Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.37.090(3) or contact the department.

(10) Am I eligible for disability benefits if my disability is the result of my criminal conduct? No. See RCW 41.37.100.

(11) How is my disability benefit affected if I am a member of more than one retirement system? If you are a member of more than one retirement system, your benefit is governed by portability law. See chapters 41.54 RCW and 415-113 WAC. You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a ser-

vice retirement calculated under the laws governing the inactive system.

(12) How long will I continue to receive a monthly disability allowance? You may receive a monthly allowance throughout your lifetime, subject to the provisions of subsection (13) of this section.

(13) Is it possible to lose my monthly disability allowance after I begin receiving it?

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive a disability allowance if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.37.010(4), at a comparable compensation.

(b) If you return to employment and reenter PSERS membership, your benefits will cease.

(14) If I take my disability benefit in a lump sum and return to work, may I restore my service credit? Yes, you may restore your service credit if you take a lump sum benefit and return to PSERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165 and 41.37.200.

RETIREMENT**NEW SECTION**

WAC 415-106-600 What are my retirement benefit options? Upon retirement for service under RCW 41.37.210 or retirement for disability under RCW 41.37.230, you must choose to have your retirement allowance paid to you by one of the options described in this section.

(1) Which option will pay my beneficiary a monthly allowance after my death? Options described in subsection (2)(b) through (d) of this section include a survivor feature. The person you name at the time of retirement to receive a monthly allowance after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly allowance for the duration of his or her life. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.

(2) What are my benefit options?

(a) Option one: Standard allowance (no survivor feature). The department will pay you a monthly retirement allowance throughout your lifetime. Your monthly retirement allowance will cease upon your death.

(b) **Option two: Joint and whole allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to the gross monthly retirement allowance you were receiving.

(c) **Option three: Joint and one-half allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to one-half of the gross monthly retirement allowance you were receiving.

(d) **Option four: Joint and two-thirds allowance.** The department will pay you a reduced monthly retirement allowance throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly allowance equal to two-thirds (66.667%) of the gross monthly retirement allowance you were receiving.

(3) **Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement allowance based on option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.37.170(2). If your survivor beneficiary has been designated by a dissolution order according to subsection (4) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

(4) **Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

(5) **What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement allowance will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will accrue from the first day of the month following the death. Your increased monthly allowance will be:

(a) The amount you would have received had you chosen the standard allowance option at the time of retirement; plus

(b) Any cost-of-living adjustments (COLAs) you received prior to your survivor beneficiary's death, based on your original option selection.

Example: John retires from PSERS in 2006. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Beatrice dies in 2011. John's monthly allowance will increase to \$2,191.05, which equals the amount he would have received had he chosen the standard allowance option, plus the COLAs he has received (based on his prior monthly allowance).

Year	Standard Allowance	Survivor Option plus COLAs	COLA incr. (3% max)	\$ Increase
2006	2,000.00	1,750.00		0.00
2007		1,750.00	.02	35.00
2008		1,785.00	.03	53.55
2009		1,838.55	.025	45.96
2010		1,884.51	.03	56.54
2011	2,000.00	1,941.05	—	—
			Total COLAs	191.05
Original Option One Monthly Allowance		+ Total COLAs= New Monthly Allowance		
\$2000		+ \$191.05		= \$2,191.05

(6) **May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

(a) **Return to membership.** If you retire and then return to membership for at least two years of uninterrupted service, you may choose a different retirement option upon your subsequent retirement. See RCW 41.37.050(3).

(b) **Postretirement marriage option.** If you select the standard allowance option at the time of retirement and marry after retirement, you may select a benefit option with a survivor feature and name your current spouse as survivor beneficiary, provided that:

(i) Your benefit is not subject to a property division obligation pursuant to a dissolution order. See WAC 415-02-500;

(ii) The selection is made during a one-year window, on or after the date of the first anniversary and before the second anniversary of your postretirement marriage;

(iii) You provide a copy of your certified marriage certificate to the department;

(iv) You provide proof of your current spouse's birth date; and

(v) You exercise this option one time only.

(c) **Removal of a nonspouse survivor option.** If you select a benefit option with a survivor feature and name a nonspouse as survivor beneficiary at the time of retirement, you may remove that survivor beneficiary designation and have your benefit adjusted to a standard allowance. You may exercise this option one time only.

(7) **Who will receive the balance of my accumulated contributions, if any, after my death?**

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement allowance paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) you have nominated by written designation, executed and filed with the department.

(ii) If you have not designated a beneficiary, or if your designated beneficiary is no longer living or in existence, then to your surviving spouse.

(iii) If not paid according to (a)(i) or (ii) of this subsection, then to your estate.

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement allowance paid equals the amount of your

accumulated contributions at the time of retirement, the balance will be paid:

(i) To the person or entity (i.e., trust, organization, or estate) your survivor beneficiary has nominated by written designation, executed and filed with the department.

(ii) If your survivor beneficiary has not designated a beneficiary, or if the designated beneficiary is no longer living or in existence, then to your survivor beneficiary's spouse.

(iii) If not paid according to (b)(i) or (ii) of this subsection, then to your survivor beneficiary's estate. See RCW 41.37.170.

NEW SECTION

WAC 415-106-610 How do I apply for retirement benefits? You should apply for retirement benefits at least thirty days before your intended retirement date by submitting to the department:

(1) A completed, signed and notarized retirement application, including:

(a) Your selection of one of the benefit options described in WAC 415-106-600.

(b) Designation of a survivor beneficiary if you selected a benefit option with a survivor feature.

(c) If you are married, your spouse's notarized signature indicating consent to the retirement option you selected.

(i) If you are married and you do not provide spousal consent, the department will pay you a monthly retirement allowance based on WAC 415-106-600 (2)(c), option three (joint and one-half allowance) and record your spouse as the survivor beneficiary as required by RCW 41.37.170 (2)(a).

(ii) Spousal consent is not required if a dissolution decree designating your survivor beneficiary under RCW 41.50.790 was filed with the department at least thirty days prior to your retirement date.

(2) Evidence of your birth date, such as a photocopy of your certified birth certificate, passport, naturalization certificate, certificate of armed services record U.S. DD 214, or other documentation acceptable to the department.

(3) If you selected a benefit option with a survivor feature, acceptable evidence of your designated survivor beneficiary's birth date.

NEW SECTION

WAC 415-106-620 How does the department calculate my retirement allowance? (1) When you apply for retirement, you will first receive a provisional retirement allowance.

(a) The department will calculate the provisional allowance based on:

(i) The data for service credit and reportable compensation in the department's system at the time it is calculated; and

(ii) Projections of your salary for periods that have not yet been reported by your employer.

(b) The department will pay you the provisional allowance until your actual retirement allowance has been calculated.

(2) To compute your actual allowance, the department must receive a final compensation report from your

employer. The department may also require any of the following from your employer:

(a) Earnings history.

(b) Copies of your employment contract(s).

(c) Copies of your employer's compensation policies.

(3) The department will make a final calculation of your actual retirement allowance by making a final determination of your service credit and AFC and by applying the correct formula to these values. Your actual retirement allowance may be higher or lower than your provisional allowance.

(4) If the amount of your actual allowance is different from your provisional allowance, the department will make the necessary adjustments.

(a) If you were underpaid, the department will pay you a lump sum payment equal to the difference of the total provisional payments you received and the total you would have received based on your actual allowance.

(b) If you were overpaid, the department will recover the overpayment either through a lump sum payment, monthly installment payments, or through an actuarial reduction of your actual allowance.

POSTRETIREMENT EMPLOYMENT

NEW SECTION

WAC 415-106-700 As a PSERS retiree, how will my retirement allowance be affected if I return to employment? (1) You may work as many hours as you choose and continue to receive your retirement allowance if:

(a) You return to work as an employee for a private employer;

(b) You return to work as a bona fide independent contractor as defined in WAC 415-02-110;

(c) Your only employment is as an elected official of a city or town and you are not a PERS member;

(d) You work in an ineligible position; or

(e) You are a retiree returning as an active member of a higher education retirement plan.

(2) If you return to work in a **PERS, SERS, or TRS Plan 2 or 3 eligible position**, your retirement allowance will be affected as follows:

(a) If you return to work within thirty consecutive calendar days from your accrual date (effective retirement date):

(i) Your monthly retirement allowance will be reduced by five and one-half percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent from such employment for thirty calendar days.

(ii) The reduction provided in (a)(i) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any reduction over one hundred percent will be applied to the allowance you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(b) If you return to work after thirty consecutive calendar days have elapsed, you may work for eight hundred sixty-seven hours each calendar year before your retirement allowance is suspended.

(3) If you return to work in an eligible **PSERS position**, your retirement allowance will be affected as follows:

(a) If you return to an eligible PSERS position and elect to reenter membership, your retirement allowance will be suspended. If you make this election, your retirement allowance will be recalculated pursuant to WAC 415-106-710 when you rerehire.

(b) If you return to an eligible PSERS position within thirty consecutive days of your accrual date (effective retirement date) and do not reenter membership, your monthly retirement allowance will be reduced by five and one-half percent for every eight hours you work during that month. This reduction will be applied each month until you remain absent from such employment for thirty calendar days. The reduction will accrue for a maximum of one hundred sixty hours per month. Any reduction over one hundred percent will be applied to the allowance you are eligible to receive in subsequent months. See RCW 41.37.050(1).

(c) If you return to an eligible PSERS position after thirty consecutive days of your accrual date (effective retirement date) and do not reenter membership, your retirement allowance will be suspended.

(4) What hours are counted toward the limits?

(a) Hours that count toward the limits are:

(i) All compensated hours that you work in an eligible position for any employer whose retirement plan is administered by the department;

(ii) Used earned sick leave and vacation days;

(iii) Paid holidays; and

(iv) Compensatory time, whether you use the time or cash it out.

(b) **Not counted toward the hour limits:** Unused sick and vacation leave you cash out.

(5) What happens if I work over the annual hour limit? The department will:

(a) Suspend your retirement allowance on the day following the day you exceed the limit, and prorate your payment for that month.

(b) Restart your retirement allowance the next calendar year or the day after you terminate all employment identified in subsection (2) of this section, whichever occurs first.

(c) Recover any overpayments made to you for the month(s) in which you exceeded the hour limit and received a retirement allowance. See RCW 41.50.130.

NEW SECTION

WAC 415-106-710 How does the department calculate my retirement allowance if I reenter PSERS membership and then rerehire? If you return to work in an eligible PSERS position, you have the option of reentering membership. If you reenter membership, your retirement allowance will be calculated according to this section when you rerehire.

(1) If you previously retired before age sixty, the department will:

(a) Calculate your retirement allowance pursuant to RCW 41.37.190 using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your AFC resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To account for any lump sum payment you took at the time of your previous retirement, plus interest, unless you choose to repay the entire amount before you rerehire;

(iii) To reflect the difference in the number of years between your current age and the attainment of age sixty, if you are not yet age sixty; and

(iv) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-106-600.

(2) If you previously retired at or after age sixty, the department will:

(a) Calculate your retirement allowance pursuant to RCW 41.37.190 using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your AFC resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) To account for any lump sum payment you took at the time of your previous retirement, plus interest, unless you choose to repay the entire amount before you rerehire; and

(ii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-106-600.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

NEW SECTION

WAC 415-106-900 How do I designate a beneficiary, and who will receive a distribution if I die before retirement? (1) You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.37.250.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.37.250(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

EXAMPLE ONE.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.37.250.

EXAMPLE TWO.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

Because John has created no trust, Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

Facts

When she became a PSERS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.37.250(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

Facts

John is a PSERS member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.37.250(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

WSR 08-02-048

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed December 27, 2007, 10:14 a.m., effective January 27, 2008]

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

Purpose: The purpose of this proposal is to amend existing rules to add reference to the Washington public safety employees' retirement system (PSERS). Chapter 41.37 RCW took effect on July 1, 2006. The department needs to update its rules to reflect the implementation of this new retirement system to assist plan members, retirees, employers and agency staff.

WAC 415-10-020, 415-10-030, 415-104-111, 415-113-030, 415-113-041, 415-113-042, 415-113-065, 415-113-090, 415-115-020, and 415-115-090, to include reference to the Washington public safety employees' retirement system (PSERS).

Citation of Existing Rules Affected by this Order: Amending WAC 415-10-020, 415-10-030, 415-104-111, 415-113-030, 415-113-041, 415-113-042, 415-113-065, 415-113-090, 415-115-020, and 415-115-090.

Statutory Authority for Adoption: For WAC 415-10-020, 415-10-030, 415-104-111, 415-113-030, 415-113-041, 415-115-020 and 415-115-090 is RCW 41.50.050(5) and chapter 41.37 RCW; for WAC 415-113-042 is RCW 41.50.050(5) and 41.37.240; for WAC 415-113-065 is RCW 41.50.050(5) and 41.37.010(6); and for WAC 415-113-090 is RCW 41.50.050(5) and 41.37.210(3).

Adopted under notice filed as WSR 07-22-114 on November 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 10, 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 10, Repealed 0.

Date Adopted: December 27, 2007.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 03-15-006, filed 7/3/03, effective 8/3/03)

WAC 415-10-020 Definitions. As used in this chapter:

(1) **Average earnings** means:

(a) In PERS Plan 1, TRS Plan 1 or WSPRS Plan 1: The average of your two highest consecutive years of compensation as of the date of your service credit purchase.

(b) In Plan 2 or Plan 3: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(c) In PSERS: The average of your five highest consecutive years of compensation as of the date of your service credit purchase.

(d) In LEOFF Plan 1: The basic salary attached to your position at the date of your service credit purchase.

(2) **Factors** means the actuarial cost factors calculated by the state actuary and adopted by the department that are used in the formulas for calculating the cost of a service credit purchase. See WAC 415-02-370 for additional information about the service credit purchase factors.

(3) **LEOFF** means the law enforcement officers' and fire fighters' retirement system established under chapter 41.26 RCW.

(4) **PERS** means the public employees' retirement system established under chapter 41.40 RCW.

(5) **PSERS** means the public safety employees' retirement system established under chapter 41.37 RCW.

(6) **SERS** means the school employees' retirement system established under chapter 41.35 RCW.

~~((6))~~ (7) **Service credit being purchased** means the number of service credit months or service credit years you are purchasing.

~~((7))~~ (8) **TRS** means the teachers' retirement system established under chapter 41.32 RCW.

~~((8))~~ (9) **WSPRS** means the Washington state patrol retirement system established under chapter 43.43 RCW.

~~((9))~~ (10) **Years of earlier retirement** equals the number of years or fractions of years you will be able to retire earlier as a result of your purchase of service credit.

~~((10))~~ (11) **Years of service** equals the total anticipated years of service you will have accrued at retirement, including the additional service credit you purchase under this section.

AMENDATORY SECTION (Amending WSR 03-15-006, filed 7/3/03, effective 8/3/03)

WAC 415-10-030 Calculation of cost to purchase service credit in certain plans. If you are a member of LEOFF Plan 1 or 2, PERS Plan 2 or 3, PSERS, TRS Plan 2 or 3, or SERS Plan 2 or 3, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50-165(2) using the following formula:

$$\text{Service Credit Purchase Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

This represents the cost of the additional retirement allowance you will receive by including the additional service credit from your purchase into your retirement benefit calculation.

Example: Purchase of additional service credit.

Ron is an active PERS Plan 2 member who currently has 18 years of service. Ron turned age 61 last month. His average earnings are \$50,000. Ron would like to purchase 3 years of service that he previously withdrew but did not restore before the deadline.

The department will first determine Ron's normal retirement age to identify the appropriate factor from the Factor 1 tableⁱ to use in the formula for calculating the service credit purchase cost. Normal retirement age (NRA) is the earliest age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. Ron's NRA will come when he is age 65 and has 21 years of serviceⁱⁱ. Since he is currently age 61, Ron is 4 years (48 months) to normal retirement age. So, the department will use the factor 0.2016 from the Factor 1 table, which is factor for 48 months to NRA under PERS Plan 2.

The department will then calculate the cost of purchasing the service credit using the Service Credit Purchase Cost formula:

$$\text{Cost} = \text{Average Earnings} \times \text{Service Credit Being Purchased} \times \text{Factor 1}$$

The cost of Ron's purchase would be calculated as follows:

$$\text{Cost} = \$50,000 \times 3 \text{ (years purchased)} \times 0.2016 \text{ (48 months to NRA)} = \$30,240$$

Ron's total cost to purchase 3 years of service credit is \$30,240.

Footnotes to section:

ⁱSee WAC 415-02-370.

ⁱⁱRon would first qualify under the PERS Plan 2 eligibility rule of being age 65 or older with at least 5 years of service.

AMENDATORY SECTION (Amending WSR 06-03-096, filed 1/17/06, effective 2/17/06)

WAC 415-104-111 How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement? This rule applies to you if you are a LEOFF 2 retiree who returns to work in an eligible LEOFF, public employees' retirement system (PERS), public safety employees' retire-

ment system (PSERS), school employees' retirement system (SERS), or teachers' retirement system (TRS) position.

(1) **If you return to employment in a LEOFF eligible position, you must reenter membership and your retirement allowance will stop.** When you separate from service, the department will calculate your retirement allowance according to this subsection.

(a) If you previously retired before age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance:

(A) Based on the present value of the retirement allowance payments you received during your initial retirement;

(B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if you are not yet fifty-three; and

(C) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(b) If you previously retired at or after age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to RCW 41.26.420 using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(c) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

(2) **If you enter employment in a PERS, PSERS, SERS, or TRS (~~or SERS~~) eligible position, you have two options:**

(a) You may choose not to become a member of the PERS, PSERS, SERS, or TRS (~~or SERS~~) retirement system and continue to receive your monthly LEOFF Plan 2 retirement allowance; or

(b) You may choose to become a member of the PERS, PSERS, SERS, or TRS (~~or SERS~~) retirement system. Your LEOFF retirement allowance will be suspended while you earn service credit and make contributions toward another retirement benefit. When you leave the PERS, PSERS, SERS, or TRS eligible position, you will resume receiving your LEOFF retirement allowance, along with retroactive payments for the time you were employed. You may choose to have your retroactive payments in a lump sum or actuarially computed into your LEOFF Plan 2 retirement allowance.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-030 Definitions for purposes of chapter 415-113 WAC. (1) All definitions in RCW 41.54.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are defined in this chapter.

(2) **Average compensation** means the compensation used by a particular retirement system to calculate a dual member's service retirement allowance. The actual meaning of the term varies depending upon the retirement system. With respect to each dual member system, "average compensation" means:

(a) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;

(b) **LEOFF Plan 2:** Final average salary as defined in RCW 41.26.030 (12)(b);

(c) **PERS:** Average final compensation as defined in RCW 41.40.010(17);

(d) **PSERS:** Average final compensation as defined in RCW 41.37.010(14);

(e) **SERS:** Average final compensation as defined in RCW 41.35.010(14);

~~((e))~~ (f) **Statewide cities retirement systems:** Final compensation as defined in 41.44.030(14).

~~((f))~~ (g) **TRS:**

(i) Plan 1: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;

(ii) Plans 2 and 3: Average final compensation as defined in RCW 41.32.010(30); and

~~((g))~~ (h) **WSPRS:** Average final salary as defined in RCW 43.43.120(15).

(3) **Dual member system** refers to the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems include:

(a) First class city retirement systems of Seattle, Tacoma and Spokane;

(b) Law enforcement officers' and fire fighters' retirement system (LEOFF) Plan 2;

(c) Public employees' retirement system (PERS) Plans 1, 2 and 3;

(d) Public safety employees' retirement system (PSERS);

(e) School employees' retirement system (SERS) Plans 2 and 3;

~~((e))~~ (f) Statewide cities employees' retirement system (SCERS);

~~((f))~~ (g) Teachers' retirement system (TRS) Plans 1, 2 and 3; and

~~((g))~~ (h) Washington state patrol retirement system (WSPRS) Plans 1 and 2.

(4) **First class city retirement systems** means the retirement systems for the non-LEOFF member employees of the cities of Seattle, Spokane and Tacoma authorized by chapter 41.28 RCW.

(5) **Member participant.**

(a) For all dual member systems administered by the department other than TRS Plan 1, "member participant" means a person who is employed for compensation in a dual member system qualifying position and is admitted into the membership of the system.

(b) For TRS Plan 1, "member participant" includes persons meeting the definition of (a) of this subsection and also includes members who are not employed for compensation but have accumulated contributions standing to their credit with TRS.

(c) This definition may not apply to first class city systems. See RCW 41.54.061 and WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

(6) **Multiple system benefit** means retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

(7) **Multiple system participant** means a person who is a participant in two or more dual member systems.

(8) **Multiple system retiree** means a person who chooses to retire under the provisions of chapter 41.54 RCW.

(9)(a) **Nonmember participant** means a person who is no longer employed in a dual member system qualifying position but has not withdrawn his or her accumulated employee contributions.

(b) This definition does not apply to TRS Plan 1. A TRS Plan 1 member who meets the criteria of (a) of this subsection is a member participant.

(c) This subsection applies only to the retirement systems listed in RCW 41.50.030.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-041 Am I a dual member? You must meet all of the following criteria to be a dual member:

(1) **You must be a participating member of a dual member system.** You must be a current member participant in at least one of the systems listed in WAC 415-113-030 to be a dual member. You may have established dual member status if you are or were a member participant in one of those systems on or after:

(a) July 1, 1988, for current or former members of all plans of PERS, SERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan 2; ~~((⊕))~~

(c) January 1, 1994, for current or former members of a first class city retirement system; or

(d) July 1, 2006, for current or former members of PSERS.

(2) **You must also be a former or current member of at least one other system listed in WAC 415-113-030.**

(3) **You must not have been retired for service from a retirement system.** You are not a dual member if you have ever been retired for service from any retirement system administered by the department of retirement systems or a first class city retirement system.

(4) If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan 1, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan 2 or 3, PSERS, SERS Plan 2 or 3, TRS Plan 2 or 3 or LEOFF Plan 2, you are in receipt of a disability benefit unless the department has found that you are no longer disabled.

(b) You are not receiving a disability retirement allowance or disability leave benefits if you:

(i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or

(ii) Retired for disability from service from WSPRS Plan 1 or 2.

Example 1: A former PERS Plan 1 member who has never been retired and becomes a member participant in TRS Plan 2 through employment with a TRS employer becomes a dual member.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4).

(b) "Dual member system" - WAC 415-113-030.

(c) "Member participant" - WAC 415-113-030.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-042 What can terminate my status as a dual member? (1) **If you terminate your status as a participating member, you also terminate your status as a dual member.** If you are no longer a member participant in any dual member system, you are no longer a dual member. If you later become a member of a dual member system, you again become a dual member.

Example 2: Upon separation from TRS Plan 2 eligible employment, the person in Example 1 (see WAC 415-113-041) is no longer a member of TRS Plan 2 nor a dual member.

(2) **If you retire, you are no longer a dual member.** When you retire from any or all dual member systems, you are no longer a dual member except for the purpose of receiving a deferred retirement allowance under RCW 41.54.030(3) and WAC 415-113-070.

(3) **If you terminate dual membership, you may still be eligible to receive a multiple system benefit if otherwise eligible.** The accrual date of your retirement allowance will vary depending upon the provisions of the particular system. You can find the accrual dates of different dual member systems in the following provisions:

(a) **LEOFF 2:** RCW 41.26.490;

(b) **PERS 1:** RCW 41.40.193;

(c) **PERS 2:** RCW 41.40.680;

(d) **PERS 3:** RCW 41.40.801;

(e) **PSERS:** RCW 41.37.240;

(f) SERS 2((⊕)); RCW 41.35.450;

~~((⊕))~~ (g) SERS 3: RCW 41.35.640;

~~((⊕))~~ (h) TRS 1: WAC 415-112-520;

~~((⊕))~~ (i) TRS 2: RCW 41.32.795;

~~((⊕))~~ (j) TRS 3: RCW 41.32.855.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Dual member system" - WAC 415-113-030.

(c) "Member participant" - WAC 415-113-030.

(d) "Multiple system benefit" - WAC 415-113-030.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-065 Can I substitute salary from one system to another? (1) You can substitute base salary between systems.

(a) If you choose to retire with a multiple system benefit, you may substitute your base salary under one dual member system for your includable compensation in a second dual member system for purposes of computing a retirement allowance from the second system. Using the substituted salary, the department will compute your average compensation under each system's own requirements.

Example 6: At retirement, Sandy is a member participant in PERS Plan 2 and has prior creditable service in TRS Plan 1. She earned her highest compensation during her PERS Plan 2 service. Sandy's PERS Plan 2 retirement allowance will be based on her PERS Plan 2 average compensation. For purposes of computing her TRS average compensation and retirement allowance, Sandy may substitute her PERS Plan 2 base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

Example 7: At retirement, Pat is a member participant in TRS Plan 1 and has prior creditable service in PERS Plan 1. He earned his highest compensation during his membership in TRS Plan 1 and received a sick-leave cashout. Pat may substitute his base salary earned while a member in TRS Plan 1 for his PERS Plan 1 compensation earnable. However, because Pat may substitute only his base salary from TRS Plan 1 for his compensation earnable in PERS, his PERS average compensation will not include the cashout payments from his TRS employer.

(b) If you do not have sufficient service credit months in one dual member system to complete an average compensation period under that system, the department will substitute the appropriate number of months of base salary from another system to complete the average compensation period.

Example 8: Tim has creditable service in TRS Plan 1 and PERS Plan 2. He retires at age sixty-five after accruing twenty-four months of service in PERS Plan 2. Under PERS Plan 2, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute Tim's PERS Plan 2 retirement allowance, the department will substitute his highest consecutive thirty-six service credit months of TRS base salary to complete the PERS sixty-month average compensation period.

(2) **Adjusted full-time salary is not base salary.** A multiple system retiree's adjusted full-time salary under RCW 41.32.345 shall not constitute base salary for purposes of computing the retiree's multiple system benefit.

(3) **Includable compensation defined.** For purposes of this chapter, "includable compensation" means:

(a) Earnable compensation under TRS Plan 1, 2 or 3 as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan 1, 2 or 3 as defined in RCW 41.40.010(8);

(c) Compensation earnable under PSERS as defined in RCW 41.37.010(6);

(d) Basic salary under LEOFF Plan 2 as defined in RCW 41.26.030 (13)(b);

~~((d))~~ (e) Monthly salary under WSPRS Plan 1 or 2 as defined in RCW 43.43.120(23); and

~~((e))~~ (f) Compensation earnable under SERS Plan 2 or 3 as defined in RCW 41.35.010(6).

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-030.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member system" - WAC 415-113-030.

(d) "Member participant" - WAC 415-113-030.

(e) "Multiple system benefit" - WAC 415-113-030.

(f) "Multiple system retiree" - WAC 415-113-030.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW? (1)

Your multiple system benefit may not exceed the highest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring if all of your service had been provided in one system. See RCW 41.54.070.

(2) **The department will compute your maximum multiple system benefit in the following order:**

(a) **Calculate the maximum benefit you could receive under each system.** The department will compute your maximum benefit according to the benefit limitation provisions of each system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under each system, the department will:

(i) Apply the provisions of each system governing the calculation of your average compensation in that system; and

(ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

Example 18: A multiple system retiree retires from TRS Plan 1 state employment with prior creditable PERS Plan 1 service. His PERS employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as TRS earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either his PERS Plan 1 or TRS Plan 1 maximum benefit.

Example 19: A multiple system retiree retires from PERS Plan 1 local government employment and receives a sick leave cashout. Because a sick leave cashout from a local government

employer may be included as earnable compensation, the department will include the sick leave cashout to compute the retiree's maximum benefits under both PERS Plan 1 and TRS Plan 1.

(b) Determine your retirement allowances from each system. After computing your maximum benefit, the department will determine the retirement allowances to which you are entitled from each system under chapter 41.54 RCW before making any reduction under RCW 41.54.070. If applicable, the department will then reduce the amount of your retirement allowances provided by either of the dual member systems for:

(i) Your status as a nonmember participant of WSPRS Plan 1 or 2 pursuant to RCW 43.43.280(2); or

(ii) Your choice to retire early (~~(from a Plan 2 system)~~ under RCW 41.40.630 (2) or (3), 41.40.820 (2) or (3), 41.37.210(3), 41.35.420 (2) or (3), 41.35.680 (2) or (3), 41.32.765 (2) or (3), ~~((41.35.420(2)))~~ 41.32.875 (2) or (3), and 41.26.430 (2) (~~(or Plan 3 system under RCW 41.32.875(2), 41.35.680(2), and 41.40.820(2))~~) or (3).

(c) Compute your total multiple system benefit. Upon computing your retirement allowances from each system and making any applicable reductions under (b) of this subsection, the department will add the systems' allowances to compute your total multiple system benefit.

(d) Compare your total multiple system benefit with your maximum benefit and, if necessary, proportionately reduce your retirement allowances. The department will then compare your total multiple system benefit with your maximum benefit calculated in (a) of this subsection. If your total multiple system benefit exceeds your maximum benefit, the department will proportionately reduce your retirement allowances provided by each system as follows:

(i) Calculate what proportion your total multiple system benefit is provided by each system separately; and

(ii) Proportionately reduce the benefit provided by each system to account for the excess of your total multiple system benefit over your maximum benefit.

Example 20: A person with twenty-nine years of prior service in TRS Plan 1 and one year of subsequent service in PERS Plan 2 retires from both systems at age sixty-five. The retiree's TRS Plan 1 average compensation is thirty thousand dollars. The TRS Plan 1 maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. The retiree's PERS Plan 2 average compensation is twenty-eight thousand dollars. The retiree's maximum PERS 2 benefit is sixteen thousand eight hundred dollars or one thousand four hundred dollars per month. The retiree's maximum benefit is the higher of the two amounts, one thousand five hundred dollars per month.

Assume the retiree's accrued service is such that her actual TRS Plan 1 monthly benefit is one thousand four hundred fifty dollars and her

PERS Plan 2 monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan 1 and PERS Plan 2 benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would proportionately reduce her TRS Plan 1 and PERS Plan 2 benefits. Her TRS Plan 1 benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan 2 benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan 1 benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x .97) and her PERS Plan 2 benefit by three percent of the overage, or one dollar and fifty cents (50 x .03).

(3) If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate. After making any applicable maximum benefit reductions, the department will further reduce your benefit if you choose:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan 1;

(b) A survivor benefit option; or

(c) A cost-of-living adjustment (COLA) option.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-030.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-030.

(d) "First class city system" - WAC 415-113-030.

(e) "Member participant" - WAC 415-113-030.

(f) "Multiple system benefit" - WAC 415-113-030.

(g) "Multiple system retiree" - WAC 415-113-030.

(h) "Nonmember participant" - WAC 415-113-030.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-115-020 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Department" refers to the department of retirement systems established pursuant to chapter 41.50 RCW as now existing or hereafter amended.

(2) "Employers" refers to all employers within the retirement systems administered by the department, as defined in RCW 41.50.030.

(3) "Reports" refers to the department of retirement systems transmittal report sent each month by employers to the department.

(4) "Close of business" refers to 5:00 p.m. of a business day.

(5) "Standard administrative fee" for employers in the public employees', public safety employees', school employees', teachers', and law enforcement officers' and fire fighters' retirement systems refers to the administrative fee provided for under RCW 41.50.110; for employers in the judges, judicial, and Washington state patrol retirement systems refers to

the biennial appropriation that the department receives for administering each system.

(6) "Additional administrative fee" refers to the fee provided for under RCW 41.50.110(3) which is related to increased costs incurred by the department in processing deficient reports.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-115-090 Maximum additional administrative fee allowable for the public employees', public safety employees', teachers', and law enforcement officers' and fire fighters' retirement systems. The maximum additional administrative fee that may be charged to employers in the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, the teachers' retirement system, and the law enforcement officers' and fire fighters' retirement system for any six-month period shall not exceed fifty percent of the standard administrative fee due for that six-month period. In instances where the standard administrative fee rate changes during the six-month period, the new standard administrative fee rate will be applied beginning with the month in which the new rate becomes effective. The maximum additional administrative fee that may be assessed is determined as follows:

(1) If the additional administrative fee as determined in accordance with WAC 415-115-080 is less than fifty percent of the standard administrative fee, the additional administrative fee is the maximum fee allowable.

(2) If the additional administrative fee as determined in accordance with WAC 415-115-080 is greater than or equal to fifty percent of the standard administrative fee, fifty percent of the standard administrative fee is the maximum fee allowable.

WSR 08-02-049
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket TV-070466, General Order R-547—Filed December 27, 2007, 1:44 p.m., effective January 27, 2008]

In the matter of amending, adopting, and repealing rules in chapter 480-15 WAC relating to household goods carriers.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 07-21-148, filed with the code reviser on October 24, 2007. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, 81.04.250, 81.28.040, 81.80.120, 81.80.130, and 81.80.290.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, these 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 amends, adopts, and repeals the following sections of the Washington Administrative Code:

Amend WAC 480-15-010 Purpose and application.

Amend WAC 480-15-020 Definitions.

Adopt WAC 480-15-025 Commission proceedings.

Amend WAC 480-15-035 Exemptions from rules.

Adopt WAC 480-15-055 Payment to the commission.

Repeal WAC 480-15-060 How may I contact the commission?

Adopt WAC 480-15-065 Address or telephone change.

Repeal WAC 480-15-070 Where is the commission located?

Repeal WAC 480-15-080 How do I file documents with the commission?

Repeal WAC 480-15-090 May I submit information to the commission confidentially?

Repeal WAC 480-15-100 What form of payment does the commission accept?

Repeal WAC 480-15-110 If I change my business address or telephone number, must I notify the commission?

Repeal WAC 480-15-120 What rules apply to commission proceedings?

Repeal WAC 480-15-130 What is the commission's compliance policy?

Repeal WAC 480-15-140 How will the commission enforce this chapter?

Adopt WAC 480-15-145 Enforcement.

Repeal WAC 480-15-150 Why would the commission take administrative action?

Repeal WAC 480-15-160 What sanctions apply to carriers operating without valid permits?

Repeal WAC 480-15-170 What is a household goods permit?

Amend WAC 480-15-180 Carrier operations that require a household goods permit.

Adopt WAC 480-15-181 Operations that do not require a household goods permit.

Adopt WAC 480-15-185 Types of household goods permits.

Amend WAC 480-15-190 Service territory.

Repeal WAC 480-15-195 When will my existing household goods permit be reissued?

Repeal WAC 480-15-200 Are there areas I may operate without a permit?

Repeal WAC 480-15-210 Are there different kinds of household goods permits?

Repeal WAC 480-15-220 How do I apply for a permit?

Amend WAC 480-15-230 Application fees.

Repeal WAC 480-15-240 How may a new entrant obtain authority?

Repeal WAC 480-15-250 What is the process to expand the authority in an existing permit?

Repeal WAC 480-15-260 Exceptions to the application process.

Amend WAC 480-15-270 Emergency temporary authority.

Amend WAC 480-15-280 Temporary authority.

Amend WAC 480-15-285 Rejecting or denying an application for temporary authority.

Amend WAC 480-15-290 Granting temporary authority.

Repeal WAC 480-15-300 What conditions may be attached to my temporary authority?

Amend WAC 480-15-310 Commenting on actions regarding temporary authority.

Amend WAC 480-15-320 Canceling a temporary permit.

Amend WAC 480-15-330 Permanent authority.

Adopt WAC 480-15-335 Exceptions to permanent authority application process.

Amend WAC 480-15-340 Commenting on an application for permanent authority.

Amend WAC 480-15-350 Setting an application for hearing.

Amend WAC 480-15-360 Retaining copies of the permit.

Amend WAC 480-15-370 Lost or destroyed permit.

Amend WAC 480-15-380 Allowing others to use permit authority.

Amend WAC 480-15-390 Permit names or trade names.

Amend WAC 480-15-400 Changing a permit name.

Amend WAC 480-15-410 Voluntary suspension of a permit.

Amend WAC 480-15-420 Voluntary cancellation of a permit.

Amend WAC 480-15-430 Involuntary suspension.

Repeal WAC 480-15-440 What happens if my permit is suspended for cause?

Amend WAC 480-15-450 Involuntary cancellation of a permit.

Repeal WAC 480-15-460 What happens if my permit is canceled for cause?

Repeal WAC 480-15-470 Rule books.

Amend WAC 480-15-480 Annual reports and regulatory fees.

Amend WAC 480-15-490 Tariff and rates, general.

Amend WAC 480-15-500 Tariff maintenance and fees.

Amend WAC 480-15-510 Changing commission published tariffs.

Amend WAC 480-15-520 Individual carrier tariffs.

Amend WAC 480-15-530 Public liability and property damage insurance.

Repeal WAC 480-15-540 What happens if my insurance filing is canceled?

Amend WAC 480-15-550 Cargo insurance.

Amend WAC 480-15-560 Equipment safety requirements.

Amend WAC 480-15-570 Driver safety requirements.

Repeal WAC 480-15-580 Accident reporting.

Amend WAC 480-15-590 Leasing vehicles.

Amend WAC 480-15-600 Lease responsibilities.

Amend WAC 480-15-610 Advertising.

Amend WAC 480-15-620 Information household goods carriers must provide to customers.

Amend WAC 480-15-630 Estimates.

Repeal WAC 480-15-640 Verbal estimates.

Repeal WAC 480-15-650 Form of estimates.

Amend WAC 480-15-660 Supplemental estimates.

Repeal WAC 480-15-670 Exceptions for nonbinding estimates.

Repeal WAC 480-15-680 Am I required to provide an accurate estimate?

Repeal WAC 480-15-690 What will happen if I underestimate a household goods move?

Repeal WAC 480-15-700 What are the commission's guidelines in deciding to assess monetary penalties for underestimating?

Amend WAC 480-15-710 Bill of lading.

Repeal WAC 480-15-720 Who must issue a bill of lading?

Repeal WAC 480-15-730 What is the format for bills of lading?

Repeal WAC 480-15-740 Information required on a bill of lading.

Amend WAC 480-15-750 Weight.

Repeal WAC 480-15-760 What are my responsibilities to notify the shipper of the actual weight and charges for the shipment?

Repeal WAC 480-15-770 Must I reweigh the shipment at the point of delivery if the shipper requests it?

Repeal WAC 480-15-780 When may I refuse to provide service to a shipper?

Repeal WAC 480-15-790 When must I not refuse service?

Repeal WAC 480-15-795 Payment options.

Amend WAC 480-15-800 Customer complaints and claims.

Amend WAC 480-15-810 Resolving customer complaints or claims.

Repeal WAC 480-15-820 What must I do if I cannot resolve a claim within one hundred twenty days?

Amend WAC 480-15-830 Complaint and claim records retention.

Repeal WAC 480-15-840 Are complaint and claim records subject to commission review and in what order must I keep the records?

Repeal WAC 480-15-850 What additional requirements exist if a claim involves more than one carrier.

Repeal WAC 480-15-860 What information must be included in the claim or complaint record?

Repeal WAC 480-15-870 What must I do if, after review, the shipper is still dissatisfied with the resolution of the complaint or claim?

Repeal WAC 480-15-880 Must I respond to all written correspondence, complaints and claims?

Amend WAC 480-15-890 Commission-referred complaints.

Amend WAC 480-15-900 Requirements for interstate operations.

Repeal WAC 480-15-910 How do I register as a registered carrier?

Repeal WAC 480-15-920 How do I register as a registered exempt carrier?

Repeal WAC 480-15-930 Registration fee and receipts.

Repeal WAC 480-15-940 Insurance requirements for interstate operations.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on April 18, 2007, at WSR 07-09-104.

8 The statement advised interested persons that the commission was considering entering a rule making to consider the review of chapter 480-15 WAC, Household goods carriers. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all registered household goods carriers. Pursuant to the notice, the commission engaged in meetings with stakeholders and provided several opportunities for stakeholders to offer written comments. The commission called for written comments to be filed in conjunction with the CR-101 on April 20, 2007, and held a stakeholder meeting on May 24, 2007. On July 20, 2007, the commission provided an additional opportunity for stakeholders to file written comments by September 14, 2007. Throughout the process, the commission considered comments offered by stakeholders and changed the draft rules as appropriate. The commission and stakeholders were able to reach consensus on all outstanding issues. On October 26, 2007, the commission called for comments in conjunction with the CR-102, the commission's proposed rules. The commission received no comments in response to the proposed rules made available to stakeholders with the CR-102 notice.

9 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on October 24, 2007, at WSR 07-21-148. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 07-21-148 at 1:30 p.m., December 12, 2007, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

10 **MEETINGS OR WORKSHOPS; ORAL COMMENTS:** The commission held a workshop for stakeholders on May 24, 2007. Commission staff and the following stakeholders attended the meeting: Jim Tutton, Washington Movers Conference; Ken Mafli, Apex Moving; Dan Powell, Star Moving Systems; Steve Suhre, Bekins Northwest Moving; Larry

Nelsen, Hansen Brothers Moving; Alan Holm, Hansen Brothers Moving; Dave Jedlicka, Hansen Brothers Moving; and Sharon Joseph, Jordan River Moving.

11 The stakeholders were concerned about the rates they are able to charge for moving services. Most felt the rates were not sufficient. The commission addressed the rate issue in a separate docket (Docket TV-071649) to the stakeholders' satisfaction by approving maximum rates at 25% above the rates in effect at the time. Some stakeholders did not agree that a written estimate should be required in all cases. They would prefer a customer be allowed to waive an estimate if they chose. Stakeholders asked the commission to retain the language on the back of the bill of lading as currently required. Stakeholders wanted to increase the number of miles that defined a local move. The current level was thirty-five miles. Stakeholders wanted it increased to fifty, fifty-five or sixty miles. Stakeholders wanted to eliminate the requirement that movers must release a shipment upon payment of 110% of a nonbinding estimate. Stakeholders wanted to require the customer pay the full amount of the actual bill before releasing the goods. Stakeholders did not want to increase the application of the definition of storage-in-transit from ninety to one hundred eighty days. Staff considered all comments offered at the workshop and incorporated changes, where appropriate, into the next version of draft rules.

12 **WRITTEN COMMENTS:** The commission did not receive any written comments in response to the CR-102.

13 **RULE-MAKING HEARING:** The commission considered the proposed rules for adoption at a rule-making hearing on December 12, 2007, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The commission originally noticed the adoption hearing for 1:30 p.m. Due to late scheduling conflicts, the commission began the adoption hearing at 9:40 a.m., directly following the regularly-scheduled open meeting. The commission notified the Washington movers conference, the only stakeholder expected to attend, of the change in time for the hearing. The commission heard oral comments from Vicki Elliott, representing commission staff, and Jim Tutton, representing the Washington movers conference of the Washington Trucking Association (movers conference). The commission reconvened the adoption hearing at 1:30 p.m. to hear from any person that did not have an opportunity to comment in the morning. No other interested person appeared or made oral comments.

14 **ORAL COMMENTS:** Mr. Tutton stated the movers conference was pleased with the collaborative process staff used in the rule making and the proposed rules. Chairman Sidran thanked staff and the movers conference on their efforts. The chairman also stated he looked forward to working with the movers conference in the future to draft legislation that would increase the commission's ability to enforce its rules and, at the same time, address the need to relax economic regulation of the household goods industry. Mr. Tutton stated he also looked forward to that work.

15 There were no written or oral comments that suggested changes to the proposed rules.

16 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds

and concludes that it should amend, repeal and adopt the rules as proposed in the CR-102 at WSR 07-21-148, with the changes described below.

17 CHANGES FROM PROPOSAL: The commission adopts the proposal with the following clarifying language changes from the text noticed at WSR 07-09-104:

- WAC 480-15-020 Definitions: Revised the definition of "Authority" as follows: "The rights granted to a ~~common~~ carrier to transport household goods." Revised the definition of "Binding estimate" as follows: "The written estimate the carrier gives to the customer in advance of the move, signed by the carrier and the customer, and by which both the carrier and customer are bound. The carrier may not charge any amount other than the binding estimate and the customer ~~may~~ must pay the amount of the binding estimate." Revised the definition of "Suspension" as follows: "Also includes suspend, suspended, suspending: An act by the commission to withhold temporarily ~~withhold~~ a household goods carrier's authority."
- WAC 480-15-280 Temporary authority: Revised subsection (1) as follows: "An applicant must apply for temporary authority to provide service to meet a short-term need. If ~~The~~ commission grants the application,..." Revised subsection (4)(d) as follows: "Allow the commission to ~~more efficiently~~ regulate the household goods industry more efficiently."
- WAC 480-15-285 Rejecting or denying an application for temporary authority: Revised subsection (2) as follows: "The application indicates evidence of fraud, misrepresentation, or erroneous information."
- WAC 480-15-330 Permanent authority: Revised subsections (4)(b), (e) and (f) as follows: "The commission may reject or deny an application for permanent authority if:
 - (b) The application indicates evidence of fraud, misrepresentation or erroneous information.
 - (e) The applicant has: (i) Previously been denied authority ~~canceled~~ by the commission....
 - (f) The results of any compliance reviews, audits, inspection reports and ~~consumer~~ customer complaints filed against the applicant cause the commission to believe issuing the permit is not in the public interest."
- WAC 480-15-420 Voluntary cancellation of a permit: Revised the text as follows: "If a carrier no longer wants to use its permit, the carrier may send ~~the original permit to~~ the commission with a written request that it be canceled...."
- WAC 480-15-430 Involuntary suspension: Revised subsection (3) as follows: "The commission will send the carrier notice ~~to any carrier~~ of its action to suspend the carrier's permit...."
- WAC 480-15-450 Involuntary cancellation of a permit: Revised subsections (2)(a) and (3) as follows:
 - (2)(a) "The commission will send the carrier notice ~~to any carrier~~ of the date the commission will cancel a permit...."
- (3) "If ~~any~~ the permit is canceled and the carrier corrects all conditions that led to ~~the~~ cancellation of the permit, the carrier may apply for reinstatement."
- WAC 480-15-480 Annual reports and regulatory fees: Revised subsection (1)(a) as follows: "Carriers must report ~~financial~~ information as required in the annual report forms."
- WAC 480-15-490 Tariff and rates, general: Revised subsection (2) as follows: "The commission publishes tariffs that all household goods carriers must use and allows household goods carriers to file individual tariffs if the commission finds it is impractical to include ~~for~~ certain commodities or services in its tariff."
- WAC 480-15-500 Tariff fees and maintenance: Deleted subsections (3) and (4) as they are duplicative of subsections (1) and (2).
- WAC 480-15-510 Changing commission-published tariffs: Revised subsection (2)(f) as follows: "Identify the name, address, title, telephone number, e-mail address, permit number and fax number (if any) of the person ~~we~~ the commission should contact regarding the proposal."
- WAC 480-15-530 Public liability and property damage insurance: Revised subsections (1)(c), (3)(a) and (b), and deleted subsection (d) as duplicative:
 - (1)(c) "The commission will suspend for thirty days and ~~then eventually~~ subsequently cancel any carrier operating without proof of required insurance coverage."
 - (3) "Carriers must file a Uniform Motor Carrier Property Damage and Public Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Property Damage and Public Liability Surety Bond (Form G) as a condition of maintaining a household goods permit."
 - (a) "The Form E or Form G filing must be issued in exactly the same name as the carrier's permit."
 - (b) "The Form E or Form G filing must be continuous, until canceled by a Notice of Cancellation (Form K) filed with the commission no less than thirty days before the cancellation effective date."
- WAC 480-15-550 Cargo insurance: Revised text in subsection (4) as follows: "The commission may suspend and ~~eventually~~ subsequently cancel the permit of any carrier operating without required cargo insurance coverage."
- WAC 480-15-560 Equipment safety requirements: Revised text in subsection (1)(d) as follows: "Make vehicles available for inspection by commission representatives at any time upon request."
- WAC 480-15-600 Lease responsibilities: Reinstated original rule language as follows: "When entering into a lease agreement, the carrier must ensure that all of the following conditions are met:..."
- WAC 480-15-810 Complaints and claims: Revised the text as follows: "When the carrier receives a complaint or claim, it must: (1) Notify the customer, in writing, within ten working business days..."
- WAC 480-15-900 Interstate operations: Revised the text as follows: "No household goods carrier may operate any motor vehicle or combination of motor vehicles over the public roads of this state in interstate

commerce unless the carrier has met all of the following requirements: "...Obtained the appropriate operating authority from the U.S. Department of Transportation (USDOT) or its successor agency, if operating as a registered carrier..."

18 In addition to these changes, typographical, formatting and internal cross-reference changes were made to headings and text, including the following sections: WAC 480-15-230, 480-15-330(3), 480-15-480(3), and 480-15-620(1).

19 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that chapter 480-15 WAC should be repealed, amended, and adopted to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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 5, Amended 46, Repealed 49.

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

20 THE COMMISSION ORDERS:

21 The commission repeals, amends, and adopts chapter 480-15 WAC to read as set forth in Appendix A, as rules of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

22 This order and the rules set out in Appendix A, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Olympia, Washington, December 27, 2007.

Washington State Utilities and Transportation Commission

Mark H. Sidran, Chairman

Patrick J. Oshie, Commissioner

Philip B. Jones, Commissioner

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

WAC 480-15-010 Purpose and application. (1) ~~(The legislature has declared that operating as a motor carrier of freight, including household goods, for compensation over the highways of this state is a business affected with a public interest and should be regulated. The purpose of)~~ These rules

~~((is to carry out))~~ implement the policies ~~((set forth))~~ in RCW 81.80.020 as they apply to household goods carriers ~~((, by establishing))~~. The rules establish standards for public safety, fair competitive practices, just and reasonable charges, nondiscriminatory application of rates, adequate and dependable service ~~((;))~~ and consumer protection, ~~((and))~~ as well as compliance with statutes, rules and commission orders.

(2) This chapter applies to all intrastate household goods carriers.

(3) Nothing in this chapter relieves any household goods carrier from its duties and obligations under the laws of the state of Washington including, but not limited to, public utility, labor, employment, and other taxes, and business and vehicle licensing requirements.

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

WAC 480-15-020 Definitions. For the purpose of this chapter, the words, terms, and phrases in this section have the following meaning:

(("))Accessorial services((")) ~~means~~ Any service((s)) provided by a household goods carrier that supplements, or ((are secondary)) is incidental to the transportation of household goods ~~((, including, but not limited to,))~~. Examples include packing ((and)), unpacking, wrapping or protecting a portion of the shipment((, and providing special handling of household goods)) or providing special equipment or services such as hoisting.

(("))Agent((")) ~~means~~ A permitted carrier, who, under the provisions of a formal written agreement, performs services on behalf of another permitted carrier.

(("))Application docket((")) ~~means~~ A commission publication listing applications requesting operating authority((, and commission action taken on applications for temporary authority)).

(("))Authority((")) ~~means~~ The rights granted to a ((common)) carrier to transport household goods.

(("))Cancellation((")) ~~means~~ An act by the commission to terminate a household goods carrier's authority.

Carrier: A company performing household goods moves.

(("))Commission((")) ~~means~~ The Washington utilities and transportation commission.

~~(((Common carrier)) means any person who undertakes to transport property, including household goods, for the general public by motor vehicle, for compensation over the public highways. This term also includes transportation under special and individual contracts or agreements.~~

"Constructive weight" ~~means~~ a weight based on a formula of seven pounds per cubic foot of properly loaded van space occupied by the customer's goods.

"Consumer" ~~means~~ a person or entity that hires a household goods carrier.

(("))Customer((")) ~~means~~ A person or entity that hires a household goods carrier.

~~("Exempt carrier" means any person operating a motor vehicle exempt from certain provisions of Title 81 RCW pursuant to RCW 81.80.040.)~~ **Estimate:**

(a) Nonbinding estimate: The written estimate the carrier gives to the customer in advance of the move. A non-binding estimate is not binding on the mover. The final charges will be based upon the actual cost of the move and the services provided, although a carrier may not charge more than twenty-five percent over the nonbinding estimate.

(b) Binding estimate: The written estimate the carrier gives to the customer in advance of the move, signed by the carrier and the customer, and by which both the carrier and customer are bound. The carrier may not charge any amount other than the binding estimate and the customer must pay the amount of the binding estimate.

(c) Supplemental estimate: An amendment to the original nonbinding estimate, necessary when the circumstances of a move change in a way from the original written estimate that increases the cost of the move.

~~(**Filing** means):~~ Any application, petition, tariff proposal, annual report, comment, complaint, pleading, or other document submitted to the commission.

~~("Household goods carrier" means a common carrier transporting household goods within the state of Washington.~~

~~(**Household goods** when the term is used in connection with transportation, means personal effects and property used or to be used in a residence when it is a part of the equipment or supply of such residence, and is transported between residences or between a residence and a storage facility, with the intent to later transport to a residence. This term excludes transportation of customer packed and sealed self-storage containers that are delivered to and from a self-storage facility, when that transportation is provided in conjunction with a self-storage agreement executed in good faith, and when no accessorial services are provided by a motor carrier in connection with the storage or the transportation of the container);~~ The personal effects and property used, or to be used, in a residence when transported between residences or between a residence and a storage facility with the intent to later transport to a residence. Transportation of the goods must be arranged and paid for by the customer or by another individual, company or organization on behalf of the customer.

~~("I" means a household goods carrier or customer, depending upon the context of the rule.~~

~~**Loaded weight** means the weight of a motor vehicle obtained when:~~

- ~~• The customer's goods are loaded into the vehicle;~~
- ~~• The vehicle's fuel tank is full;~~
- ~~• All pads, chains, dollies, hand trucks, and other equipment needed in the transportation of the shipment are on board the vehicle;~~
- ~~• The vehicle's crew is not on board the vehicle.~~

~~(**Local move** means all);~~ A move(s) taking place within the limits of a city or town or moves (specifically defined as local in the commission tariff) where the shipment is transported fifty-five miles or less.

~~(**Long distance move** means any);~~ A move (not meeting the definition of a local move) where the shipment is transported fifty-six miles or more.

~~("May" means an option. You may do something but it is not a requirement.~~

~~**May not** means to prohibit from doing something.~~

~~**Motor carrier** means "common carrier," "exempt carrier," and "private carrier," as defined in this chapter.~~

~~(**Motor vehicle** means any) or **vehicle** (, machine, tractor, trailer, or semi-trailer, propelled or drawn by mechanical power, or any combination of such vehicles, used upon the highways in the transportation of property, including household goods. A motor vehicle is not a self-storage container);~~ Any motor truck, tractor or other self-propelled vehicle, any trailer, semi-trailer or any combination of such vehicles moving as a single unit.

~~("Must" means a legal obligation. You are required to do something.~~

~~**Net weight** means the weight of the goods shipped by the consumer. It is determined by subtracting the tare weight of a motor vehicle from the loaded weight.~~

~~(**Permit** means):~~ A document issued by the commission describing the authority granted to a household goods carrier (under the provisions of chapter 81.80 RCW, as amended. A permit may be temporary or permanent in duration, and may allow a household goods carrier to transport household goods throughout the state of Washington or limit the household goods carrier to transportation of household goods in designated areas of the state).

~~(**Person** includes);~~ Any individual, firm, corporation, company, or partnership.

~~("Private carrier" means persons who transport their own household goods, household goods being bought or sold by them in good faith, or transport household goods purely as an incidental adjunct to some established business owned or operated in good faith.~~

~~**Registered carriers** means motor carriers operating in interstate or foreign commerce under authority issued by the Interstate Commerce Commission, the U.S. Department of Transportation, or a successor agency.~~

~~**Registered exempt carriers** means motor carriers operating in interstate or foreign commerce under the exemptions of the Federal Motor Carrier Act without interstate authority issued by the Interstate Commerce Commission, the U.S. Department of Transportation, or a successor agency.~~

~~**Shipper** means a person or entity that hires a household goods carrier.~~

~~**Small business** means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.)~~ **Shipment:** A load of household goods moved by a carrier from a single residence or as a single transaction.

~~(**State** means);~~ The state of Washington.

~~(**Suspension** means)~~ also includes **suspend, suspended, suspending:** An act by the commission to withhold temporarily (withhold) a household goods carrier's authority.

~~("Tare weight" means the weight of an empty motor vehicle obtained when:~~

- ~~• The vehicle's fuel tank is full;~~

~~All pads, chains, dollies, hand trucks, and other equipment needed in the transportation of the shipment are on board the vehicle; and~~

~~The crew is not on board the vehicle.~~

~~)Tariff(" means): A publication containing ((the)) rates and charges ((that)) carriers must ((be assessed)) assess on shipments of household goods and the rules that govern how rates and charges are assessed.~~

~~("Transportation of household goods" means the for hire movement of household goods by motor vehicle over the public highways of the state. This includes providing estimates, arranging for receipt, delivery, storage in transit, handling, and providing any accessorial services in connection with that movement.~~

~~"Us" means the Washington utilities and transportation commission.~~

~~"We" means the Washington utilities and transportation commission.~~

~~"You" means a household goods carrier, customer, insurance company, or other person or entity, depending on the context of the rule.)~~

NEW SECTION

WAC 480-15-025 Commission proceedings. The commission's rules governing administrative practices and procedures are in chapter 480-07 WAC. When a rule in this chapter is different than a rule in chapter 480-07 WAC, the rule in this chapter applies to household goods carriers.

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

WAC 480-15-035 Exemptions from rules. (1) The commission may grant an exemption of any rule in this chapter when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a company must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the company requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will issue an order granting ~~((or))~~, denying, or modifying the request or setting it for hearing, pursuant to chapter 480-07 WAC.

NEW SECTION

WAC 480-15-055 Payment to the commission. Carriers or other persons may pay required fees, penalties or other assessments by money order, check, certified check, credit or debit card or by electronic payment payable to the utilities and transportation commission. The commission will accept cash if a payment is made in person. The commission accepts only United States funds.

NEW SECTION

WAC 480-15-065 Address or telephone change. If a carrier changes its physical or mailing business address, e-mail address or telephone number, it must immediately notify the commission in writing at the address listed in WAC 480-15-060.

NEW SECTION

WAC 480-15-145 Enforcement. The commission has a number of options available to enforce its statutes, rules, orders and tariff requirements, as follows:

(1) RCW 81.04.110 allows the commission to file a complaint and hold a hearing.

(2) RCW 81.04.260 allows the commission to file in court for an immediate injunction for violations of law, commission rule, order, direction or requirement of the commission.

(3) RCW 81.04.380 allows penalties against public service companies of up to one thousand dollars for each violation for each day the violation occurs or continues to occur.

(4) RCW 81.04.387 allows penalties against corporations, other than public service companies, of up to one thousand dollars for each offense.

(5) RCW 81.04.390 provides that violations may be treated as misdemeanors.

(6) RCW 81.04.405 allows penalties of one hundred dollars for each violation for each day the violation occurs or continues to occur. These penalties are issued through a penalty assessment with a fifteen-day response period.

(7) RCW 81.04.510 and 81.80.070 allows the commission to issue cease and desist orders against a carrier operating without a permit.

(8) RCW 81.80.280 allows the commission to cancel, suspend, alter, or amend a permit for violations of federal or state law, or commission rule.

(9) RCW 81.80.070 also allows a penalty of one thousand five hundred dollars to any carrier operating without a permit.

(10) RCW 81.80.355 provides that advertising without a permit may be treated as a misdemeanor.

(11) RCW 81.80.357 allows a penalty of five hundred dollars for each violation when a carrier does not include its permit number in its advertisements.

(12) WAC 480-120-172 allows a telecommunications company to disconnect a customer's service if that service is used for illegal purposes, such as operating without a permit issued by the commission.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-180 ((When must I have)) Carrier operations that require a household goods permit((?)).
~~((1) Unless you are operating in the territory described in WAC 480-15-200, you must receive a permit from us before you transport household goods:~~

~~(a) By motor vehicle;~~

~~(b) Over the public highways;~~

~~(c) Between points in Washington state; and~~

~~(d) For compensation:~~

~~(2) If you transport household goods without first obtaining a permit you will be subject to the enforcement actions described in WAC 480-15-160(3-).) A carrier must receive a permit from the commission before transporting household goods, for compensation, by motor vehicle (including a rental truck) over public roads between two points within the state unless the carrier is operating in the territory described in subsection (1) or (2) of this section:~~

~~(1) Under RCW 81.80.040(1), a carrier does not need a permit to operate exclusively between points within the limits of a city or town with a population of less than ten thousand, unless it borders a city or town with a population of greater than ten thousand.~~

~~(2) Under RCW 81.80.040(2), a carrier does not need a permit to operate exclusively between points within a city with a population between ten thousand and thirty thousand if the commission has issued an order exempting transportation within that city from regulation. As of June 2007, these cities included:~~

~~(a) Cities of Mountlake Terrace and Mercer Island, exempted by commission General Orders 178, effective March 3, 1965, and R-66, effective May 8, 1974.~~

~~(b) City of Ellensburg, exempted by commission General Order 199, effective April 17, 1968.~~

NEW SECTION

WAC 480-15-181 Operations that do not require a household goods permit. A company's operations do not require a permit from the commission when the company:

- (1) Moves commercial or office goods, except when part of a household goods moves.
- (2) Transports goods that are packed and loaded on the vehicle and unloaded by the customer.
- (3) Transports goods which are loaded in customer packed and sealed self-storage type containers in conjunction with storage when no accessorial services are provided by the company.
- (4) Uses a truck the customer owns or rents, even if the company does the packing and loading.
- (5) Packs and loads the goods but does not transport the belongings.
- (6) Moves goods interstate.

NEW SECTION

WAC 480-15-185 Types of household goods permits. The commission may issue any of the following types of permits:

- (1) **Emergency temporary authority** for a period of thirty days or less when there is an urgent need for service and time or circumstances do not reasonably allow filing and processing an application for temporary authority.
- (2) **Temporary authority** for up to one hundred eighty days to meet a short-term public need or until the commission makes a decision on the pending application for permanent authority. The applicant must be fit, willing and able and the proposed service must be in the public interest.
- (3) **Permanent authority** has no expiration date or renewal requirement when the applicant is fit, willing and

able to provide service and meets the current or future public convenience and necessity standards.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

~~**WAC 480-15-190 ((Where may I operate with a household goods permit?)) Service territory. ((+))**~~ Household goods permits authorize statewide operations unless:

~~((a)) (1) You elect to limit your service territory to specific counties; or~~

~~((b)) (2) The commission, by order, limits your service territory.~~

~~((2) If you choose to limit your service territory to specific counties, you must notify us in writing at the address shown in WAC 480-15-060. Your written request must include your household goods permit number and name-))~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

~~**WAC 480-15-230 ((What is the)) Application fees ((?)).** ((The maximum application fee, under RCW 81.80.090, is five hundred fifty dollars. After reviewing the actual costs of processing applications, we may set fees at less than the legal maximum. Each application form will clearly state the fee you must submit when filing an application.~~

~~The following table lists the application fees in place on the effective date of these rules:)) Application fees are:~~

Type of Permit Application:	Fee:
Emergency temporary authority	\$50.00
Temporary authority	\$250.00
Permanent authority	\$550.00
((Permanent authority (under the exceptions named in WAC 480-15-260))) <u>Transfer or acquisition of authority under WAC 480-15-335</u>	\$250.00
Permit reinstatement (under provisions of WAC ((480-15-460)) <u>480-15-450</u>)	\$250.00
Name change only	\$35.00

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

~~**WAC 480-15-270 ((When will the commission grant)) Emergency temporary authority ((?)).** ((We will)) The commission may grant an application for emergency temporary authority to operate up to thirty days to meet an urgent public need when time or circumstances do not reasonably allow ((for the)) filing and processing ((of)) a temporary permit application. ~~((We may grant emergency temporary authority for up to thirty days when a qualified))~~ The applicant must do all of the following:~~

- (1) Provide((s)) a certified statement of support identifying the need((:)).
- (2) Complete the application.

(3) Pay ~~(the)~~ the application fee ~~(;)~~.

~~((3))~~ (4) Furnish ~~(es)~~ a list of vehicles ~~((to be used))~~ the applicant will use under emergency temporary authority ~~((; and))~~.

~~((4))~~ (5) Furnish ~~(es)~~ proof of public liability and property damage insurance.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-280 ~~((When must I apply for))~~ Temporary authority ~~((?))~~. (1) ~~((You))~~ An applicant must apply for temporary authority ~~((if you are a new entrant, or))~~ to provide service to meet a short-term need. ~~((If you are a new entrant, and))~~ If the commission grants ~~((you))~~ the application, the temporary authority will allow ~~((you))~~ the applicant to provide service as a household goods carrier on a provisional basis for at least six months. During this time, the commission will evaluate whether ~~((you have))~~ the applicant has met the criteria in WAC 480-15-330 to obtain permanent authority.

(2) ~~((We))~~ The commission will grant or deny an application for temporary authority after ~~((we have conducted))~~ conducting a complete review of ~~((you))~~ the application, ~~((any))~~ supporting statements, reports or other information necessary to determine ~~((you))~~ fitness ~~(;)~~ and ~~((determine))~~ determining whether granting the application is in the public interest.

(3) When determining if an applicant is fit, willing ~~(;)~~ and able to provide the proposed service ~~((we))~~ the commission will consider any information provided by the applicant and other members of the public including, but not limited to, information regarding the applicant's:

(a) ~~((The applicant's))~~ Experience in the industry ~~(; knowledge of safety regulations; financial resources and equipment; compliance with tax, labor, employment, business, and vehicle licensing laws and rules; and)~~.

(b) ~~((Whether the applicant has been cited for violation of state law or commission rules, has been convicted of a Class A or Class B Felony, or has previously been denied authority on the basis of fitness; or has had permit authority canceled))~~ Knowledge of safety regulations.

(c) Financial resources.

(d) Equipment resources.

(e) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(f) Compliance with Title 81 RCW and commission rules.

(g) Conviction of any crime.

(h) Previous denial of authority on the basis of fitness.

(i) Previous cancellation of permit authority.

(4) When determining if the proposed service is in the public interest ~~((we))~~, the commission will consider any information provided by the applicant, ~~((shippers))~~ customers and other members of the public ~~((supporting))~~ concerning the proposed service ~~((; and))~~. The commission will also consider whether granting the temporary authority will:

(a) Enhance choices available to consumers ~~(;)~~.

(b) Promote a viable yet competitive household goods industry ~~((; or))~~.

(c) Fill an unmet need for service ~~((; and))~~.

~~((b))~~ (d) Allow ~~((us))~~ the commission to ~~((more efficiently))~~ regulate the household goods industry ~~((; and))~~ more efficiently.

(e) Provide increased consumer protection through regulation.

(5) Applicants, customers and other members of the public must submit statements and reports ~~((from the applicant, shippers, and other members of the public, must))~~ that:

(a) Include their full name, address, phone number ~~((; and))~~.

(b) State that the information submitted is true and accurate. ~~((They must be))~~

(c) Are signed and show the place and date ~~((where/ when))~~ they were signed.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-285 ~~((Are there times when the commission will reject my))~~ Rejecting or denying an application for temporary authority ~~((?))~~. ~~((We will))~~ The commission may reject ~~((you))~~ or deny an application for temporary authority if ~~((you file))~~:

(1) The application is incomplete.

(2) The application indicates evidence of fraud, misrepresentation, or erroneous information.

(3) The applicant filed within six months of a denial of a previous application ~~((submitted by you. We will reject your application if filed))~~ or within one year of cancellation of a permit ~~((; held by you,))~~ under WAC 480-15-320 or 480-15-450 ~~((3), (4), (5), or (6))~~ (1)(c) through (g).

(4) The applicant does not have:

(a) Sufficient experience in the industry.

(b) Sufficient knowledge of safety regulations.

(c) Sufficient financial resources or equipment.

(d) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(5) The applicant has:

(a) Previously been denied authority by the commission on the basis of fitness.

(b) Been convicted of a crime.

(c) Previously had permit authority canceled by the commission.

(d) Been subject to other enforcement actions for violations of state law or commission rules.

(6) Other circumstances exist that cause the commission to believe issuing the permit is not in the public interest.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-290 ~~((How will I know what the commission has decided?))~~ Granting temporary authority. After reviewing ~~((your))~~ the application, ~~((and all))~~ information concerning the application and supporting statements and reports, the commission will issue an order ~~((to you))~~ granting or denying ~~((you))~~ the application for temporary authority. An order granting temporary authority may include specific terms and conditions ~~((that you))~~ the applicant must satisfy before ~~((you begin))~~ beginning or while

operating under authority, such as specific training, safety audits or reporting. ~~((We publish an application docket listing temporary authority we have granted or denied.))~~

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

WAC 480-15-310 ~~((May I comment on a decision to grant or deny))~~ **Commenting on actions regarding temporary authority**~~((?))~~. (1) ~~((We))~~ The commission publishes an application docket listing temporary authority ~~((we have))~~ it has granted or denied. ~~((We))~~ The commission mails the docket to each applicant and, upon written request, to any other person interested in application proceedings.

(2) ~~Anyone ~~((having an interest in an application appearing on the docket))~~ wishing to comment on an action on the commission's application docket that grants or denies temporary authority may file written comments within ten days following publication. ~~((Comments may be in the form of statements supporting or protesting the grant of authority or application.))~~ Comments must include ~~((your))~~ the commenter's full name, address, telephone number, e-mail address, fax number~~((s))~~ and permit number, if applicable. Comments must ~~((state the nature of your))~~ indicate support for, or protest ~~((and address))~~ of, the temporary authority for any one or more of the following ~~((issues))~~ reasons:~~

- (a) Fitness~~((s))~~.
- (b) Public interest~~((s))~~.
- (c) Levels of service~~((s))~~.
- (d) Business practices~~((s))~~.
- (e) Safety~~((s and/or))~~.
- (f) Operation of equipment.

(3) ~~((We))~~ The commission may ~~((grant or deny a protest without a hearing. We may, at our own))~~ at its discretion, hold a brief adjudicative proceeding on ~~((a))~~ an action for temporary authority because it received comments that protest the action. See chapter 480-07 WAC for rules governing ~~((applications and procedures for))~~ brief adjudicative proceedings ~~((are in chapter 480-07 WAC)).~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-320 ~~((May the commission cancel))~~ **Canceling a temporary permit**~~((?))~~. ~~((Yes, we))~~ The commission may cancel a temporary permit at any time if ~~((we))~~ it determines ~~((that))~~ any of the following conditions exist:

- (1) The permit was not issued in the public interest~~((s))~~.
- (2) The ~~((grant))~~ approval of the temporary authority was based on fraud, misrepresentation, or erroneous information from the applicant~~((s or))~~.
- (3) ~~((We find cause to cancel the permit under the circumstances described in WAC 480-15-450.))~~ The applicant filed within six months of a denial of a previous application or within one year of cancellation of a permit under WAC 480-15-320 or 480-15-450 (1)(c) through (g).

(4) The carrier does not have:

- (a) Sufficient experience in the industry.
- (b) Sufficient knowledge of safety regulations.
- (c) Sufficient financial resources or equipment.

(d) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(5) The carrier has:

(a) Been convicted of any crime.

(b) Previously been denied authority by the commission on the basis of fitness.

(c) Failed or refused to comply with applicable laws and rules pertaining to operations of household goods carriers.

(d) Failed to file an annual report or pay required regulatory fees.

(e) Allowed others to transport goods under the carrier's permit authority.

(6) Other circumstances exist that cause the commission to believe canceling the permit is in the public interest.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-330 ~~((When must I apply for))~~ **Permanent authority**~~((?))~~. (1) ~~((You))~~ An applicant must apply for permanent authority if ~~((you are))~~ he or she is requesting any of the following:

(a) New original authority~~((s))~~.

(b) Transfer of existing authority~~((s))~~, except as described in WAC 480-15-335.

(c) Acquisition of control of existing authority~~((s))~~.

(d) Additional authority for an existing household goods permit~~((s or))~~

~~Household goods authority for an existing general commodities permit granted under the provisions of chapter 480-14 WAC)).~~

(2) ~~((We))~~ The commission will grant or deny an application for permanent authority after ~~((we have conducted))~~ it conducts a complete review of ~~((your))~~ the application, supporting statements, reports~~((s))~~ or other information necessary to determine fitness, public interest~~((s))~~ and current or future public convenience and necessity.

(3) Some transfers of existing permanent authority are not subject to the requirements in this rule. WAC 480-15-335 lists the exceptions ~~((are listed in WAC 480-15-260)).~~

(4) When determining if an applicant is fit, willing and able to provide the proposed service, ~~((we))~~ the commission will consider statements and reports including any information provided by the applicant and other members of the public ~~((regarding)).~~ The commission may reject or deny an application for permanent authority if:

~~((The applicant's experience in the industry; knowledge of safety regulations; financial resources and equipment; compliance with tax, labor, employment, business, and vehicle licensing laws;~~

~~Whether the applicant has been cited for violation of state law or commission rules, has been convicted of a Class A or Class B Felony, or previously has been denied authority on the basis of fitness; and~~

~~The results of any compliance reviews, audits, inspection reports, and consumer complaints filed against the applicant.))~~ The application is incomplete.

(b) The application indicates evidence of fraud, misrepresentation or erroneous information.

(c) The applicant filed within six months of a denial of a previous application or within one year of cancellation of a permit under WAC 480-15-320 or 480-15-450 (1)(c) through (f).

(d) The applicant does not have:

(i) Sufficient experience in the industry.

(ii) Sufficient knowledge of safety regulations.

(iii) Sufficient financial resources or equipment.

(iv) Compliance with tax, labor, employment, business and vehicle licensing laws and rules.

(e) The applicant has:

(i) Previously been denied authority by the commission.

(ii) Been convicted of any crime.

(iii) Previously had permit authority by the commission.

(iv) Paid or incurred penalties or received citations for violation of state law or commission rules.

(v) Been subject to other enforcement actions for violation of state law or commission rules.

(f) The results of any compliance reviews, audits, inspection reports and customer complaints filed against the applicant cause the commission to believe issuing the permit is not in the public interest.

(g) Other circumstances exist that cause the commission to believe issuing the permit is not in the public interest.

(5) When determining if the proposed service is in the public interest ~~((we))~~ the commission will consider statements and reports, including any information provided by the applicant ~~((s))~~ and other members of the public ~~((supporting))~~ concerning the proposed service, and whether granting the permanent authority will:

(a) Enhance choices available to consumers ~~((s))~~.

(b) Promote a viable yet competitive household goods industry ~~((or))~~.

(c) Fill an unmet need for service ~~((and~~

~~((b)))~~.

(d) Allow ~~((us))~~ the commission to more efficiently regulate the household goods industry ~~((and))~~.

(e) Provide increased consumer protection through regulation.

(6) When determining if the proposed service is needed to satisfy the current or future public convenience and necessity, ~~((we))~~ the commission will consider any information provided by the applicant, ~~((shippers,))~~ customers and other members of the public ~~((supporting))~~ concerning the proposed service ~~((s))~~ and any reports relating to the operations ~~((you))~~ conducted under temporary authority ~~((s))~~ including, but not limited to, the following:

(a) The number of customers ~~((you))~~ served ~~((s))~~.

(b) The nature of the service ~~((you))~~ provided ~~((s))~~.

(c) ~~((You))~~ Customer ~~((s))~~ satisfaction ~~((and))~~.

(d) Statements regarding future need for ~~((your))~~ services.

NEW SECTION

WAC 480-15-335 Exceptions to permanent authority application process. (1) The commission will grant an application to transfer or acquire control of existing permanent authority without requiring temporary operations, public notice or comment if the applicant is fit, willing and able to

provide service and the applicant has filed to transfer or acquire control of permanent authority for any one of the following reasons:

(a) A partnership has dissolved due to the death, bankruptcy or withdrawal of a partner and that partner's interest is being transferred to a spouse or to one or more remaining partners.

(b) A shareholder in a corporation has died and that shareholder's interest is being transferred to a surviving spouse or one or more surviving shareholders.

(c) A sole proprietor has died and the interest is being transferred as property of the estate.

(d) An individual has incorporated and the same individual remains the majority shareholder.

(e) An individual has added a partner but the same individual remains the majority partner.

(f) A corporation has dissolved and the interest is being transferred to the majority shareholder.

(g) A partnership has dissolved and the interest is being transferred to the majority partner.

(h) A partnership has incorporated, and the partners are the majority shareholders.

(i) Ownership is being transferred from one corporation to another corporation when both are wholly owned by the same shareholders.

(2) The commission will grant an application for permanent authority without requiring temporary operations after the application has been published on the application docket subject to comment for thirty days if the applicant is fit, willing and able to provide service, the applicant has filed to transfer or acquire control of permanent authority and all of the following conditions exist:

(a) Ownership or control of a permit is being transferred to any shareholder, partner, family member, employee or other person familiar with the company's operations and the household goods moving services provided.

(b) The permit has been actively used by the current owner to provide household goods moving services during the twelve-month period prior to the application.

(c) The application includes a certified statement from the applicant and the current owner explaining why the transfer of ownership or control is necessary to ensure the company's economic viability.

(d) The application includes a certified statement from the applicant and the current owner describing the steps taken by the parties to ensure that safe operations and continuity of service to customers is maintained.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-340 ((May I comment)) Commenting on an application for permanent authority ((s)) (1) ~~((We))~~ The commission publishes applications for permanent authority ~~((on))~~ in the application docket ~~((which we))~~ that it mails to each applicant and, upon written request, to any other person interested in application proceedings.

(2) Anyone having an interest in an application appearing on the docket may file written comments within thirty days following publication, unless the application is pub-

lished in conjunction with a grant of temporary authority. If the permanent authority application is published in conjunction with a grant of temporary authority, then comments will be accepted for one hundred eighty days or the full term of the temporary permit(s).

(3) Comments may ~~(be in the form of statements supporting or protesting)~~ either support or protest the application. Comments must include the commenter's full name, address, telephone number, ~~(and should also include a)~~ e-mail address, fax number and permit number, if available. Comments ~~(should)~~ must be signed and indicate the place and date when they were signed. Comments must ~~(state the nature of your support or protest and address the following issues)~~ indicate support for, or protest of, the permanent authority for any one or more of the following reasons:

- (a) Fitness(¿).
- (b) Public interest(¿).
- (c) Levels of service(¿).
- (d) Business practices(¿).
- (e) Safety(¿).
- (f) Operation of equipment(~~;-and~~).
- (g) Current or future public need for service.

(4) A comment protesting an application ~~(may)~~ will not, on its own, cause the ((application to be set)) commission to set the matter for a hearing.

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

WAC 480-15-350 ((Will-my)) Setting an application ((be set)) for ((a)) hearing((?)). ~~((We))~~ The commission may hold a hearing or brief adjudicative proceeding on any application for permanent authority if it is necessary to resolve outstanding issues or concerns related to fitness, public interest, public convenience and necessity(¿) or any other issue resulting from a compliance review, audit, inspection report, complaint(¿) or public comment. See chapter 480-07 WAC for rules governing hearings and brief adjudicative proceedings ((are contained in chapter 480-07 WAC)).

Part 2.4 - Using ~~((You))~~ The Permit

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-360 ((Where-must-I-keep-my)) Retain- ing copies of the permit((?)). ~~((You))~~ Carriers must keep ((your)) the original permit in ((your)) their main office(¿) and ((also)) carry a copy ((of your permit)) in each vehicle used to transport household goods. ((You)) Carriers must show a copy of ((your)) the permit to any law enforcement or compliance officer who asks to see it.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-370 ((What-should-I-do-if-my-permit-is)) Lost or destroyed((?) permit. ~~((We))~~ Carriers may write to ((us)) the commission and request replacement of a lost or destroyed permit. ((We)) The commission will issue a replacement permit at no charge.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-380 ((May-I-allow)) Allowing others to use ((my)) permit authority((?)). ~~((You-must))~~ Intrastate carriers may not allow others to transport household goods under ((your)) their permit authority. ((At)) Only the lawful permit holder may conduct operations under a household goods permit ((must be conducted by the lawful permit holder. While you may)). Carriers may not lease ((your)) permit authority, ((you)) but may lease vehicles from others for use in ((your)) their own operations pursuant to the leasing rules in WAC 480-15-590 and 480-15-600.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-390 ((What-name-may-I-use?)) Permit names or trade names. (1) ~~((You))~~ A carrier must conduct operations under the exact name shown on ((your)) its household goods permit. If ((you do)) a carrier does business under a trade or assumed name, that name must also appear on ((your)) the permit.

(2) ~~((You))~~ A carrier may not operate under a name that is similar to ((that of)) another carrier unless one of the following conditions applies:

(a) The carrier whose name is similar has given ~~((you))~~ written permission to use the name(~~;-or~~).

(b) The commission authorizes use of the similar name. Before authorizing use of a similar name, the commission must first determine that the use of the similar name will not(~~;-~~

~~(i))~~ mislead the shipping public(¿) or

~~((ii))~~ result in unfair or destructive competitive practices.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-400 ((How-do-I-change-my)) Changing a permit name((?)). (1) ~~((You))~~ Carriers must file a name change application ((if you want)) to change ((your)) the permit name, corporate name(¿) or trade name(¿) or to add a trade name to ((your)) the permit.

(2) ~~((Your name change application))~~ Carriers must include the application fee (as shown in WAC 480-15-230), copies of any corporate minutes authorizing the name change(¿) and proof that ((you have)) the carrier has properly registered ((your)) the new name with the department of licensing, office of the secretary of state(¿) or other agencies(¿) as may be required.

(3) ~~((You))~~ Carriers must file an application to transfer or acquire control of permanent authority if ((your)) the name change is the result of a change in ownership or controlling interest.

(4) ~~((You))~~ Carriers may not advertise or operate under the ((changed)) proposed name change until the commission approves ((your request)) the application.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-410 (~~What should I do if I cannot use my permit?~~) **Voluntary suspension of a permit.** (1) If ~~(you are)~~ a carrier is unable to use ~~(your)~~ its permit due to medical reasons or because ~~(you have been called into)~~ of active military service, ~~(you)~~ it may request ~~(that you)~~ the authority be voluntarily suspended.

(2) ~~(You)~~ The carrier must send ~~(your)~~ its request to ~~(us)~~ the commission in writing and include the following information:

- (a) ~~(Your)~~ Name, address, and permit number~~(s)~~.
 - (b) The reason for the request (e.g., medical statement, military orders)~~(s)~~.
 - (c) The date ~~(you would like the)~~ voluntary suspension ~~(to)~~ is requested to begin~~(s)~~.
 - (d) The length of time ~~(you)~~ the carrier will be unable to use ~~(your)~~ the permit~~(s and)~~.
 - (e) A statement that no household goods transportation will occur under ~~(your)~~ the permit while it is suspended.
- (3) ~~(We)~~ The commission will issue an order suspending ~~(your)~~ the permit. The order will set the length of time and the terms of ~~(your permit)~~ suspension.
- (4) To activate ~~(your)~~ a suspended permit ~~(you)~~, a carrier must send ~~(us)~~ the commission a letter advising that ~~(you are)~~ it is ready to resume household goods service and agree to conduct operations in compliance with all laws and rules. ~~(You)~~ The carrier must satisfy any outstanding filing requirements before ~~(we)~~ the commission will issue an order lifting the suspension.
- (5) If ~~(you do)~~ the carrier does not activate ~~(your)~~ the permit before the suspension period expires, ~~(your)~~ the commission may cancel the permit ~~(may be canceled)~~.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-420 (~~What should I do if I no longer want to use my permit?~~) **Voluntary cancellation of a permit.** If ~~(you)~~ a carrier no longer wants to use ~~(your)~~ its permit, ~~(you)~~ the carrier may send ~~(the original permit to us with)~~ the commission a written request that it be canceled. ~~(You)~~ The cancellation request must include ~~(your)~~ the carrier's name, address~~(s)~~ and permit number. ~~(We)~~ The commission will issue an order canceling ~~(your)~~ the permit~~(s Cancellation will be)~~, effective on the date of ~~(that)~~ the order.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-430 (~~Why would the commission suspend my permit?~~) **Involuntary suspension.** (1) The commission may suspend ~~(your)~~ a permit ~~(under the provisions of WAC 480-15-410 or)~~ without the carrier's authorization for good cause. Good cause includes, but is not limited to, the carrier:

- (a) ~~(Failure)~~ Failing to maintain evidence of required cargo ~~(and/or liability)~~ insurance coverage for all areas of ~~(your)~~ its operations~~(s)~~.

(b) ~~(Failure)~~ Failing to maintain evidence of required liability insurance coverage for all areas of its operations.

(c) Failing to ~~(maintain your tariff and/or)~~ comply with the rates and rules contained in the commission-published tariff~~(s)~~.

(e) Failure or refusal to comply with operating standards that protect the public health and/or safety~~(s)~~.

(d) Failing or refusing to comply with applicable laws and commission rules pertaining to operations of household goods carriers, including safety requirements set in law or rule.

(e) Allowing others to transport goods under ~~(your)~~ the carrier's permit authority. ~~(See WAC 480-15-380.~~

(e) Operating in a manner which harms the rights of the shipping public or which constitutes unfair or deceptive business practices. For example: Investigation by the commission's staff representatives upholds numerous consumer complaints related to loss and damage, packing, loading and/or unloading, estimating or billing~~(s)~~.

(f) Committing fraud.

(2) The commission may suspend a permit without an opportunity for hearing if there is imminent danger to the public health, safety or welfare~~(s or)~~ and there is insufficient time to conduct a hearing.

(3) The commission will send the carrier notice of its action to suspend the carrier's permit. The suspension begins on the effective date listed in the notice.

(4) A carrier may contest the suspension of its permit by requesting a hearing or brief adjudicative proceeding. Chapter 480-07 WAC describes the procedures for such hearings.

(5) The commission will lift the suspension of the permit after the carrier corrects all conditions leading to the suspension.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-450 (~~Why would the commission cancel my permit?~~) **Involuntary cancellation of a permit.** (1) The commission may cancel ~~(your)~~ a permit ~~(under the provisions of WAC 480-15-410, 480-15-420 or)~~ without the carrier's authorization for good cause. Good cause includes, but is not limited to, the carrier:

~~((1) Failure)~~ (a) Failing to file an annual report or pay required regulatory fees~~(s)~~.

~~((2) Failure)~~ (b) Failing to correct, within the time frame specified in the suspension order, all conditions that led to the suspension of ~~(your)~~ a permit~~(s)~~.

~~((3) Continued violations of applicable laws and rules affecting the public health, safety or welfare when the commission has reason to believe you would not comply with those laws and rules following a specified period of suspension;~~

~~(4) Repeated failure or refusal)~~ (c) Failing or refusing to comply with applicable laws and commission rules pertaining to operations of household goods carriers~~(s)~~, including safety requirements set in law or rule.

~~((5) Failure)~~ (d) Failing to supply information necessary to the commission for the performance of its regulatory

functions when ~~((requested by))~~ the commission requests the carrier to ~~((provide such information;))~~ do so.

~~((6-Submission of))~~ (e) Submitting false, misleading or inaccurate information. ~~((The commission will hold a hearing prior to canceling your permit unless your permit is subject to cancellation because you failed, within the time frame specified by a suspension order, to correct the causes of the suspension;))~~

(7)) (f) Allowing others to transport goods under ~~((your))~~ the carrier's permit authority ~~((in violation of WAC 480-15-380)).~~

(g) Operating in a manner that constitutes unfair or deceptive business practices.

(h) Committing fraud.

(2) The commission will hold a hearing prior to canceling a permit unless the permit is subject to cancellation because the carrier failed, within the time frame specified by a suspension order, to correct the causes of the suspension. In that case:

(a) The commission will send the carrier notice of the date the commission will cancel a permit. The commission will enter an order canceling the permit thirty days after the service date of the notice.

(b) A carrier may contest the cancellation of its permit by requesting a hearing or brief adjudicative proceeding. Chapter 480-07 WAC describes the procedures for such hearings.

(3) If the permit is canceled and the carrier corrects all conditions that led to cancellation of the permit, the carrier may apply for reinstatement.

(a) To reinstate the permit within thirty days of cancellation, the carrier must file an application for reinstatement and pay the applicable reinstatement fees as stated in WAC 480-15-230.

(b) If the carrier files an application for reinstatement after thirty days of cancellation, the application will be considered in all aspects to be an application for new authority and will be subject to all terms and conditions specified in WAC 480-15-240 for new entrants.

~~((Part 3.1 - Rule Books))~~

Part ~~((3.2))~~ 3.1 - Annual Reports and Regulatory Fees

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-480 Annual reports and regulatory fees. (1) ~~((What is an annual report?))~~ An annual report is a year end statement that discloses ~~((to the commission financial, equipment, operating, and management))~~ information to the commission about ~~((you and the operations you conducted under your household goods permit. Your signed report includes a statement certifying that the information in your report is true and accurate))~~ regulated companies.

(a) ~~((You))~~ Carriers must report ~~((your financial))~~ information ~~((according to the uniform system of accounts established by the commission for household goods carriers))~~ as required in the annual report forms.

(b) The commission will mail annual report forms and instructions to each household goods permit holder at

~~((their))~~ its address of record. If ~~((you do))~~ a carrier does not receive an annual report form, it is ~~((your))~~ the carrier's responsibility to contact the commission and request the form.

(2) ~~((What is a regulatory fee?))~~ A regulatory fee is an annual assessment paid by each household goods carrier to cover the costs of regulating the household goods industry. ~~((The maximum regulatory fee is set by law at one-fourth of one percent of the gross operating revenue generated from your intrastate transportation of household goods. We may reduce the fee by general order. Each year we review the costs of regulating the household goods industry and set the next year's fee accordingly.))~~ The commission reviews the costs of regulating the industry and sets fees proportionate to costs, although not above the maximum amount allowed by law.

(3) ~~((How do I calculate my regulatory fee? Your))~~ Regulatory fees ~~((is))~~ are calculated as a percentage of ~~((your))~~ intrastate gross operating revenues generated from the transportation of household goods during the prior calendar year. For example:

((For exam- ple:))	Gross Operating Revenue	\$100,000.00	x-
	Regulatory Fee Percentage	.0025	=
	Regulatory Fee Due	\$ 250.00)
	Gross operating revenue	\$100,000	
	Times the regulatory fee percentage	.0025	
	Equals the regulatory fee due	\$ 250	

(4) ~~((When are my annual report and regulatory fees due? You))~~ Carriers must file ~~((your))~~ annual reports and pay ~~((your))~~ regulatory fees by May 1st of ~~((the))~~ each year ~~((following the calendar year for which you are reporting))~~ based on the prior year's operations. The commission must receive both the annual report and the regulatory fee payment no later than May 1.

(a) ~~((If you pay your regulatory fee late, we))~~ The commission will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month after that, for any regulatory fees not received by May 1.

(b) ~~((If you do not file your annual report and/or do not pay your regulatory fee, we))~~ The commission may issue penalty assessments or cancel ~~((your))~~ a carrier's permit ~~((under the provisions of WAC 480-15-450))~~ for failure to pay regulatory fees or file annual reports.

Part ~~((3.3))~~ 3.2 - Tariff and Rates

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

WAC 480-15-490 Tariff and rates, general. (1) ~~((What is a tariff?))~~ A tariff is a publication containing the rates and charges that household goods carriers must assess on shipments of household goods, including rules that govern how rates and charges are assessed.

(2) ~~((How are tariff rates and charges established?))~~

(a) Pursuant to RCW 81.80.130 and 81.80.150,)) The commission publishes tariffs ((to be used by)) that all household goods carriers((, or)) must use and allows household goods carriers to file individual tariffs if the commission finds it is impractical to ((publish tariffs for)) include certain commodities or services in its tariff. ((The commission determines the rates and charges contained in the tariffs by commission order following notice and hearing. Under RCW 81.80.130, the commission must set fair, just, reasonable, and sufficient rates and charges. The commission will do this by setting minimum and maximum rates.

(b) Upon the effective date of these rules, and continuing until such time as the commission, after notice and hearing, determines a different rate level, household goods carriers must assess rates and charges within a band.

(i) The maximum rates and charges must be no more than twenty percent above the rates and charges as published by the commission in Tariff 15A in effect on February 1, 2000.

(ii) The maximum rates and charges established in (b)(i) of this subsection will be adjusted each June 1, through 2005, by an index calculated using the first quarter implicit price deflator (IPD) of the gross domestic product as follows:

$$\text{Index for Current Year} = \frac{\text{IPD for Previous Year First Quarter}}{\text{IPD for Current Year First Quarter}}$$

Example: Using the following data:

IPD for Previous Year First Quarter	102.35
IPD for Current Year First Quarter	103.83

Index for Current Year is calculated as follows:

IPD for Current Year First Quarter	103.83
Divided by IPD for Previous Year First Quarter	102.35
Equals Index for Current Year	=1.0145

Maximum Rate or Charge is calculated as follows:

Maximum Rate for Previous Year	\$ 100.00
Multiplied by Index for Current Year	x 1.0145
Equals the Maximum Rate for Current Year	= \$ 101.45

Round the maximum rate to the next \$.01, with \$.005 and greater rounded up and less than \$.005 rounded down. Mileage rates are rounded to the next \$.0001.

(iii) The minimum rate or charge is fixed at no less than forty percent below the maximum rate or charge established in (b)(i) of this subsection:))

(3) ((Who must have tariffs? Each person holding)) All household goods carriers are required to follow the terms, conditions, rates and all other requirements imposed by the commission-published tariff.

(4) The commission will set minimum and maximum rates carriers may charge within the tariff.

(5) Every household goods permit ((authority)) holder must ((purchase and display)) obtain at least one copy of the current tariff, and may pay applicable tariff maintenance fees.

Any interested person may purchase a copy by paying the applicable fees in advance.

~~((4) **Where must a household goods carrier display its tariffs?** A household goods carrier must display a current copy of the tariff in its main office and in each billing office.~~

~~(5) **Who must charge rates contained in the tariff?** All household goods carriers must charge the rates and charges, and comply with the rules contained, in the tariff unless the commission has approved, in writing, deviations from the tariff.~~

~~(6) **Is the tariff the only publication a household goods carrier needs to use to determine rates?** The commission may adopt other publications that will be used to assess rates. If we do, we will notify tariff subscribers of the change.~~

~~(7) **Where may the public view tariffs?** Tariffs are public documents and you must make them available for the public by posting copies at your main office and any billing office. Tariffs are also available for review at our headquarters office.~~

~~(8) **How much does a tariff cost?** The cost of tariffs may change periodically depending on our costs for compiling, printing, distributing, and maintaining them. To find out the current cost, you may contact the commission as described in WAC 480-15-060.~~

~~(9) **Are copies of current or expired tariff pages available?** The commission will supply you with current or expired single tariff pages upon request. Copies of entire expired tariffs, or entire tariffs applicable on a specific date in the past, generally are not available.))~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-500 Tariff maintenance and fees. (1) ((What is a tariff maintenance fee? A)) The commission may charge tariff maintenance fees ((compensates us for compiling, printing, and distributing amended tariff pages)) on an annual basis.

(2) ((Do I always have to pay full maintenance fees? The annual maintenance fee is payable in advance on a prorated basis depending upon the month in which you purchase a tariff. See the table below:)) The commission may bill any applicable tariff maintenance fees by December 1 of each year. When billed, companies and other tariff subscribers must pay the bill by December 31.

(a) If a tariff subscriber does not have a permit and fails to pay the billed maintenance fee by December 31, the commission may cancel the tariff subscription. To reinstate a subscription, the tariff subscriber must obtain a new original copy of the tariff and pay all applicable maintenance fees.

(b) If a tariff subscriber has a permit and fails to pay billed tariff fees by December 31, the commission may take administrative action against the household goods carrier to suspend or cancel the permit, or to assess penalties.

<u>((Month in which maintenance service is purchased</u>	<u>Percentage of total maintenance fee payable</u>
<u>January, February, March</u>	<u>100%</u>
<u>April, May, June</u>	<u>75%</u>

((Month in which maintenance service is purchased	Percentage of total maintenance fee payable
July, August, September	50%
October, November, December	25%

(3) How am I billed for my annual tariff maintenance fees? By December 1 of each year, we send a bill to each tariff subscriber for the next year's annual tariff maintenance service. Tariff subscribers must pay maintenance fees by December 31.

(4) What happens if a tariff subscriber fails to pay the annual maintenance fees by December 31?

(a) If a tariff subscriber does not have a permit, and fails to pay the maintenance fee by December 31, we will cancel the tariff subscription. To reinstate a subscription, the tariff subscriber must purchase a new original copy of the tariff and pay all applicable maintenance fees.

(b) If a tariff subscriber has a permit and fails to pay tariff fees by December 31, we may take administrative action against the household goods carrier to suspend or cancel the permit, or to assess penalties.

(5) Am I entitled to a refund if I cancel my tariff subscription? If you cancel your tariff subscription and send us a written request we will refund your prepaid tariff maintenance fees. We base refunds on a prorated formula of one-twelfth the amount of the fee prepaid, times the number of whole months remaining in the calendar year.)

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

WAC 480-15-510 Changing commission-published tariffs. (1) ~~((Who may propose changes to the tariff?))~~ Companies holding temporary or permanent household goods authority may propose changes to the tariff. ~~((We))~~ In addition, the commission may, on ((our)) its own motion, propose tariff changes.

(2) ~~((How do I propose changes to the tariff?))~~ Companies must send all proposed changes ((must be sent)) to the commission's mailing address ((and)). Proposed changes must meet all of the following:

- (a) Be in writing((;)).
- (b) Identify the ~~((rates, rules, or classifications))~~ tariff item to be changed((;)).
- (c) Fully describe the proposed change((;)).
- (d) State clearly the reason(s) for the proposed change((;)).
- (e) Include any information or documents that justify the proposed change (the person proposing the change must prove the change is just and reasonable)((; and)).
- (f) Identify the name, address, title, telephone number, e-mail address, permit number and fax number (if any) of the person ~~((we))~~ the commission should contact regarding the proposal.

(3) ~~((How does the commission consider proposals for tariff changes?))~~ When ((we)) the commission receives a proposed tariff change ((we)), it will:

- (a) Assign a docket number((;)).
- (b) Schedule each docketed proposal for tariff change for consideration at ~~((one of our))~~ a regularly scheduled open

public meeting((s)). ~~((The commission may approve the proposed changes, or suspend them and set them for hearing;))~~

(c) Notify ~~((you and))~~ other interested persons of the date when ~~((we))~~ it will consider the tariff change~~((; and))~~.

(d) ~~If the application for tariff change is suspended, the commission will process ((each)) the application ((for tariff change)) under the procedures set forth in chapter 480-07 WAC.~~

(4) ~~((When do approved changes become effective? Changes we approve))~~ Approved changes are not effective until ~~((we))~~ the commission publishes and distributes a revised tariff page with a stated effective date. ~~((We will identify the effective date of the change on the revised page.))~~

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

WAC 480-15-520 ((Procedure for filing)) Individual carrier tariffs. (1) ~~((What must be filed? You))~~ To file an individual tariff or to amend an approved individual tariff already on file with the commission, a carrier must submit ((to us)) all of the following:

(a) A cover letter requesting permission ~~((from us))~~ to publish and file an individual tariff. The letter must describe the reasons ~~((you))~~ the carrier believes permission should be granted. ~~((Your))~~ The letter should state the reasons ~~((you believe))~~ it is impractical for ~~((us))~~ the commission to publish a tariff for the commodities or services contained in ~~((your))~~ the proposed tariff.

(b) Two copies of ~~((your))~~ the proposed tariff. ~~((Your))~~ The proposed tariff must comply with the tariff drafting standards in chapter 480-149 WAC ((Tariff Circular No. 6). You may request a copy of chapter 480-149 WAC from our records management section). The proposed tariff must contain all rates, charges, and rules ~~((you))~~ the company will ~~((be using))~~ use if ((we grant you permission)) granted approval to publish and file an individual tariff.

(c) Data showing that the rates and charges contained in the proposed tariff are fair, just, reasonable((;)) and sufficient.

(2) ~~((How are individual carrier filed tariffs processed?))~~

- (a) We review individual carrier filed tariffs:
 - (i) For compliance with laws and rules relating to content and format;
 - (ii) To ensure rates are fair, just, reasonable, and sufficient; and
 - (iii) For reasonableness and accuracy.

(b) If tariffs are incomplete or do not comply with laws and rules, staff will discuss the issues with the carrier and require that corrected tariffs be filed.

(c) ~~When an individual carrier filed tariff is approved, the commission will issue an order stating the date on which the rates become effective. One copy of the tariff marked "approved" will be returned with the order.~~

(3) How does the commission consider proposals to amend individual carrier filed tariffs? When we receive your proposed tariff amendment we will:

- (a) Assign a docket number;

(b) Schedule each proposed tariff amendment for consideration at one of our regularly scheduled open public meetings. The commission may approve the proposed amendment, or suspend them and set them for hearing;

(c) Notify you and other interested persons of the date when we will consider the tariff proposed amendment;

(d) Process your proposed tariff amendment under the procedures established in chapter 480-07 WAC; and

(e) Notify you of the disposition of your proposed tariff amendment. If the filing is approved, we will notify you of the date upon which the tariff amendment becomes effective.

~~(4) What happens if I don't charge the rates and charges in my tariff?~~ You are subject to administrative action (see WAC 480-15-130(3)) if you charge rates or charges different from those contained in your tariff.) When an individual carrier filed tariff is approved, the commission will issue an order stating the date on which the rates become effective. The commission will return one copy of the tariff marked "approved" to the company.

Part ~~(3.4)~~ 3.3 - Insurance

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-530 Public liability and property damage insurance. (1) ~~((What insurance am I required to obtain?))~~ Before operating under a household goods permit, ~~((you))~~ carriers must have public liability and property damage insurance covering ~~((each))~~ every motor vehicle ~~((that you use, or that you will use, to transport household goods in the state of Washington))~~ used in its operations. The commission will not issue a permit for authority to operate without acceptable proof of required insurance coverage. Carriers must maintain the required public liability and property damage insurance at all times for every motor vehicle used in Washington intrastate operations.

(a) ~~((Your))~~ The policy must be written by an insurance company authorized to write insurance in Washington state.

(b) ~~((Your))~~ The policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability Endorsement, Form F.

(c) ~~((If you operate motor vehicles without the required insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430.))~~ The commission will suspend for thirty days and subsequently cancel any carrier operating without proof of required insurance coverage.

(2) ~~((What are the minimum insurance limits?))~~ The minimum limits of required public liability and property damage insurance for motor vehicles operated by household goods carriers are as follows:

(a) At least three hundred thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of less than ten thousand pounds (must have at least three hundred thousand dollars in combined single limit coverage).

(b) At least seven hundred fifty thousand dollars in combined single limit coverage for motor vehicles with a gross vehicle weight rating of ten thousand pounds or more (must

have at least seven hundred fifty thousand dollars in combined single limit coverage)).

(3) ~~((Am I required to file proof of insurance? Yes, you))~~ Carriers must file a Uniform Motor Carrier Property Damage and Public Liability Certificate of Insurance (Form E) or Uniform Motor Carrier Property Damage and Public Liability Surety Bond (Form G) as a condition of maintaining ~~((your))~~ a household goods permit.

(a) ~~((The Form E is a standard motor carrier insurance form recognized by the insurance industry. In most cases your insurance agent must request that the insurance company file the Form E with us.~~

~~((b) Your))~~ The Form E or Form G filing must be issued in exactly the same name as ~~((your))~~ the carrier's permit.

~~((e) Your))~~ (b) The Form E or Form G filing must be continuous, until canceled by a Notice of Cancellation (Form K) filed with ~~((us))~~ the commission no less than thirty days before the cancellation effective date.

~~((d) You may file a Uniform Motor Carrier Property Damage and Public Liability Surety Bond (Form G) instead of the Form E.))~~

(4) ~~((May I file an insurance binder? We))~~ The commission will accept an insurance certificate or binder for up to sixty days. A certificate or binder may be canceled by filing written notice with ~~((us))~~ the commission at least ten days before the cancellation effective date. A certificate or binder must be replaced by a Form E within sixty days of filing, or before the expiration date, whichever occurs first.

(a) Certificates or binders must ~~((show))~~ include all of the following:

(i) The commission as the named certificate holder~~((;))~~;

(ii) ~~((Your))~~ The carrier's name, exactly as it appears on ~~((your))~~ the permit or application, as the insured~~((;))~~;

(iii) The insurance company name~~((;))~~;

(iv) The insurance policy number~~((;))~~;

(v) The effective and expiration dates~~((; and))~~;

(vi) The insurance limits of coverage.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-550 Cargo insurance. (1) ~~((What are the cargo insurance requirements? You))~~ Carriers must have cargo insurance coverage ~~((sufficient))~~ at the levels prescribed in subsection (2) of this section to protect all household goods ~~((that you transport))~~ transported under ~~((your))~~ the permit. ~~((If you transport household goods under your permit without the required cargo insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430.))~~ The commission will not issue a permit for authority to operate without acceptable proof of required cargo insurance coverage.

(2) ~~((What are the minimum cargo insurance limits?))~~ The minimum limits of required cargo insurance are:

(a) Ten thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of less than ten thousand pounds.

(b) Twenty thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.

(3) ~~((Am I required to file proof of cargo insurance? No, you are not required to file))~~ Carriers must provide proof of ((your)) required cargo insurance ((with us)) when they apply for a permit. ((You)) In addition, carriers must have proof of cargo insurance at ((your)) their main office available for inspection by commission representatives.

(4) The commission may suspend and subsequently cancel the permit of any carrier operating without required cargo insurance coverage.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

WAC 480-15-560 Equipment safety requirements.

(1) ~~((What are the commission's equipment safety requirements?))~~ All ((motor vehicles operated under the provisions of this chapter)) carriers must ((be at all times)) comply with all of the following requirements:

(a) ~~((Maintained))~~ Maintain all vehicles in a safe and sanitary condition((;)).

(b) Maintain vehicles free of defects likely to result in an accident or breakdown((; and)).

(c) ~~((Made))~~ Maintain vehicles consistent with the North American Uniform Out Of Service Criteria as adopted in WAC 480-15-999.

(d) Make vehicles available for inspection by commission representatives at any time upon request.

~~((All motor vehicles having safety defects likely to result in an accident or breakdown will be placed out of service and taken off the road until such time as all out of service defects have been repaired and the motor vehicle is safe to operate.~~

~~(2) **How does the commission enforce these requirements?** Commission representatives conduct inspections of motor vehicles and safety operations. These representatives may place out of service any motor vehicle having a defect defined in the *North American Uniform Out Of Service Criteria* as adopted in WAC 480-15-999. No motor vehicle which has been placed out of service may be operated until all out of service defects are repaired and the motor vehicle is safe to operate.~~

~~(3) **How must a household goods carrier identify its motor vehicles?**~~ (2) A household goods carrier must display its permit name and number, as registered with the commission, on both the driver and passenger doors of all power units.

(a) All markings on the power unit must be:

(i) Clearly legible((;)).

(ii) No less than three inches high((;)).

(iii) In a color that contrasts with the background color((; and)).

(iv) Permanent. *Exception:* ~~((You))~~ Carriers may use temporary markings on vehicles ((you are operating)) operated under a lease.

(b) ~~((If you have))~~ Carriers with both intrastate and interstate authority((; you)) must display either ((your)) the commission permit number, federal permit number((;)) and both((;)) on the power unit.

~~((4) **What vehicle safety laws and rules must a household goods carrier follow?**~~

~~((a) You))~~ (3) Carriers must comply with all of the following requirements:

~~((+))~~ (a) All state and local motor vehicle safety laws and rules including, but not limited to, those contained in this chapter((;)).

~~((+))~~ (b) The following parts of Title 49 of the Code of Federal Regulations (49 CFR), as adopted by reference in this chapter on the date specified in WAC 480-15-999:

~~((A))~~ (i) 49 CFR Part 390: Safety Regulations, General; except the following definitions will apply:

~~((F))~~ The terms "exempt motor carrier," "motor carrier," "motor vehicle," and "private carrier" have the meanings assigned to them in this chapter;

~~((H))~~ The term "commercial motor vehicle" means any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more; or if the gross vehicle weight or gross combination weight is ten thousand one pounds or more;

~~((H))~~ Whenever the term "director" is used, it shall mean the commission.

~~((B))~~ (A) Exempt motor carrier: Any person operating a motor vehicle exempt from certain provisions of RCW Title 81 as defined in RCW 81.80.040.

(B) Motor carrier: Any common carrier, exempt carrier and private carrier as defined in WAC 480-15-020.

(C) Motor vehicle: Any vehicle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power, or any combination of such vehicles, used on the public roads to transport household goods.

(D) Private carrier: Persons who transport their own household goods, transport household goods bought or sold by them or transport household goods purely as an incidental adjunct to an established business.

(E) Commercial motor vehicle: Any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more or if the gross vehicle weight or gross combination weight is ten thousand one pounds or more.

(F) Director: The commission.

(ii) 49 CFR Part 392: Driving of Commercial Motor Vehicles((;)).

~~((C))~~ (A) 49 CFR Part 393: Parts and Accessories Necessary for Safe Operation((; and)).

~~((D))~~ (B) 49 CFR Part 396: Inspection, Repair, and Maintenance.

~~((b))~~ If you fail to comply with these laws and rules, the commission may issue a citation to you, place your vehicle out of service, and/or initiate an administrative proceeding against you. See WAC 480-15-130(3).

~~(5) **Are household goods carriers required to equip their motor vehicles with antispray devices (mud flaps)?**~~

~~((a) Yes,))~~ (C) All motor vehicles must be equipped with mud flaps which effectively reduce the spray or splash of water from the road.

~~((b))~~ (D) Mud flaps must be as wide as the tires on which they are mounted, and must extend from the top of the tires down to at least the center of the axle.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

WAC 480-15-570 Driver safety requirements. (1) ~~((What are the commission's driver safety requirements?))~~ No household goods carrier shall employ or allow any driver to operate a motor vehicle who fails to meet minimum criteria related to all of the following requirements:

- (a) ~~((Driver's licensing;~~
- (b) ~~Background and character;~~
- (c) ~~Physical qualifications;~~
- (d) ~~Hours of service; and~~
- (e) ~~Controlled substances and alcohol use testing.~~

(2) ~~How does the commission enforce those requirements?~~ Commission representatives inspect driver and company safety records and documents to determine compliance with these rules. Additionally, the representatives may contact drivers during the course of investigations, inspections, or other routine commission business. The representatives may order out of service any driver meeting the conditions defined in the *North American Uniform Out Of Service Criteria* as adopted in WAC 480-15-999. No driver who has been placed out of service may operate a commercial motor vehicle until all conditions which caused the driver to be placed out of service are corrected.

~~(3) Driver qualification requirements:~~

(a) You must comply with:

(i) All state and local laws and rules governing driver safety, including, but not limited to, the rules in this chapter(;

(ii)).

(b) The North American Uniform Out Of Service Criteria as adopted in WAC 480-15-999.

(c) The following parts of Title 49 of the Code of Federal Regulations (49 CFR), as adopted by reference in this chapter on the date specified in WAC 480-15-999:

((A)) (i) 49 CFR Part 390: Safety Regulations, General; except the following definitions will apply:

((H) The terms "exempt motor carrier," "motor carrier," "motor vehicle," and "private carrier" have the meanings assigned to them in this chapter;

(H) The term ")) (A) Exempt motor carrier: Any person operating a motor vehicle exempt from certain provisions of RCW Title 81 as defined in RCW 81.80.040.

(B) Motor carrier: Any common carrier, exempt carrier and private carrier as defined in WAC 480-15-020.

(C) Motor vehicle: Any vehicle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power, or any combination of such vehicles, used on the public roads to transport household goods.

(D) Private carrier: Persons who transport their own household goods, transport household goods bought or sold by them or transport household goods purely as an incidental adjunct to an established business.

(E) Commercial motor vehicle(" means)): Any motor vehicle used by a household goods carrier to transport household goods, if either the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more(;) or if the gross vehicle weight or gross combination weight is ten thousand one pounds or more(;

(H) Whenever the term ")).

(F) Director(" is used, it shall mean)): The commission.

((B)) (ii) 49 CFR Part 382: Controlled Substance and Alcohol Use and Testing(;)).

((C)) (iii) 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties(;)).

((D)) (iv) 49 CFR Part 391: Qualification of Drivers(; and)).

((E)) (v) 49 CFR Part 395: Hours of Service of Drivers.

((b) If you, or your driver, fail to comply with any driver safety law or rule, we may issue a citation to you or your driver, place your driver out of service, and/or initiate an administrative proceeding against you. See WAC 480-15-130(3).

(4) **Exceptions to the requirements in this rule.** The following exceptions apply:

(a) If your) (2) Operations that are exclusively ((H)) intrastate commerce(, you) are not subject to the following provisions:

((i)) (a) 49 CFR Part 391.11 (b)(1): Minimum age requirements. The minimum age for drivers of motor carriers operating solely intrastate is eighteen years of age rather than the twenty-one years of age required to operate in interstate commerce.

((ii)) (b) 49 CFR Part 391.49: Waiver of certain physical defects. This part does not apply if the driver has obtained from the Washington department of licensing a driver's license with endorsements and/or restrictions allowing operation of the motor vehicle they are driving.

((b) If you are a single vehicle owner operator and your operations are solely intrastate, you are not subject to the following provisions:

(i) 49 CFR Part 391.21: Application for Employment;

(ii) 49 CFR Part 391.23: Investigation and Inquiries;

(iii) 49 CFR Part 391.25: Annual Review of Driving Record;

(iv) 49 CFR Part 391.27: Record of Violations;

(v) 49 CFR Part 391.31: Road Test; and

(vi) 49 CFR Part 391.33: Equivalent of Road Test.))

((Part 4.3—Accidents))

Part ((4.4)) 4.3 - Equipment Leasing

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-590 ((What is the procedure for)) Leasing vehicles((?)). (1) ((Yøø)) A carrier must file an equipment lease agreement and receive commission approval before ((you may operate)) operating a leased motor vehicle. ((To request approval you must submit a completed lease agreement on a form supplied by the commission, or an alternate form as long as it contains substantially the same information as that on the commission form. The form must be)) The carrier must meet all of the following requirements:

(a) File a completed ((in its entirety (we will reject and return incomplete forms);)) form provided by the commis-

sion or use an alternate form containing the same information.

(b) ~~((Signed by both parties;))~~ Sign the form and ensure the lessor signs the form.

(c) ~~((Submitted in duplicate (we will return one approved copy to you;))~~ Submit two copies to the commission.

(d) Clearly ~~((marked))~~ mark "master lease" if ((you)) the carrier intends ((it to be used as such in lieu)) to use a master lease instead of submitting individual leases((; and

~~(e) Submitted through any means identified in WAC 480-15-060).~~

(2) ~~((We may institute administrative action as described in WAC 480-15-130(3) against any household goods carrier who operates leased motor vehicles without first having obtained commission approval.~~

~~(3) You are))~~ A carrier is not required to file a lease for approval on an emergency substitution of a disabled vehicle.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-600 ~~((What are my responsibilities when entering into a lease?))~~ Lease responsibilities. When entering into a lease agreement, ~~((it is your responsibility to))~~ the carrier must ensure that all of the following conditions are met:

(1) A copy of the approved lease is carried in all leased motor vehicles((;)).

(2) Copies of all approved leases are kept in ~~((your))~~ the carrier's permanent files for at least one year after the lease expires((;)).

(3) ~~((You))~~ The carrier gives a copy of the approved lease to the owner of the leased motor vehicle((;)).

(4) ~~((You have complete))~~ The carrier takes possession, control and use of the motor vehicle during the period of the lease agreement((;)).

(5) ~~((You provide))~~ The carrier maintains insurance on the leased motor vehicle as specified in WAC 480-15-530 and~~((or))~~ 480-15-550((;)).

(6) ~~((You))~~ The carrier properly ~~((identify))~~ identifies the motor vehicle as specified in ~~((WAC 480-15-560(3);))~~ RCW 81.80.305.

(7) The carrier charges appropriate tariff rates and charges ~~((are billed and collected;)).~~

(8) The driver of the leased motor vehicle is on ~~((your))~~ the carrier's payroll during the leased period((;)).

(9) ~~((You comply))~~ The carrier complies with all safety rules((;)).

(10) ~~((You))~~ The carrier and the owner of the leased motor vehicle specify on the lease form who is responsible for all expenses relating to the leased motor vehicles~~((; and;)).~~

(11) ~~((You comply))~~ The carrier complies with the terms of the approved lease.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-610 ~~((What are my responsibilities regarding))~~ Advertising((?)). (1) ~~((You))~~ Carriers must include ~~((your))~~ the commission-issued permit number, name or trade name as recorded at the commission, business

address and business telephone number in any advertising ~~((of your))~~ for household goods moving services. Advertising includes, but is not limited to ~~((; reference to your services on your vehicles, equipment, and in telephone books, internet, contracts, correspondence, cards, signs, posters, newspapers, and documents which show your name and address;))~~

(a) Advertisements in telephone books, newspapers, correspondence, cards, or any other written document.

(b) Signs, posters or similar displays.

(c) Web sites or other on-line advertising.

(2) ~~((You may only advertise services authorized by your permit;))~~ Advertisements may not be misleading, false or deceptive.

(3) ~~((You))~~ Carriers may advertise services ~~((you provide))~~ provided as an agent of, or connecting carrier to, another household goods carrier if ~~((you))~~ they include the name and permit number of the other household goods carrier in ~~((your))~~ their advertising.

(4) ~~((You must))~~ Carriers may not advertise services or rates and charges that conflict with those in the tariff.

~~((5) If you violate these advertising rules we may assess a penalty of up to five hundred dollars for each violation, or initiate other administrative action. See WAC 480-15-130(3;))~~

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

WAC 480-15-620 Information household goods carriers must provide to customers. (1) ~~((You))~~ Carriers must give each customer a copy of the ~~((commission brochure))~~ publication, "Your ((Rights and Responsibilities as a)) Guide to Moving ((Company Customer;)) in Washington State" at the time the carrier gives the customer a written estimate.

~~((a) At the time you issue a written nonbinding estimate;~~

~~(b) At the time you issue a written binding estimate;~~

~~(c) If you issue neither a written estimate or a written nonbinding estimate, prior to loading the shipment; or~~

~~(d) Upon request, by the customer.~~

(2) The brochure is available from the commission and contains consumer information about selecting a moving company, estimates, rates and tariff charges, payment terms, change orders, supplemental estimates, preparing articles for shipment, valuation protection for loss and damage of goods, expedited service, small shipments, temporary storage, bill of lading contracts, loss and damage claims, informal complaints, and formal complaints. The commission may also present information in different formats for various media ~~((printed materials, on-line materials, fact sheets, brochures, etc;))~~ (2) The language contained in the publication is prescribed by the commission and may not be changed by the carrier.

(3) The commission will provide carriers the prescribed language but will not provide copies of the publication. Carriers are responsible for making sufficient copies for their needs.

(4) Carriers may access the prescribed language through the commission's web site at www.utc.wa.gov or by contacting the commission at 360-664-1222.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-630 Estimates. ~~((An estimate is a written approximation of the probable cost of a move prepared in compliance with the provisions of the household goods tariff. Estimates are based on factors such as the van space required, the weight of the household goods, the amount of time needed to complete the move, and the type of special services provided. You may provide your customer with either of two basic types of estimates:~~

~~(1) A **nonbinding estimate** which is based on an inventory of the customer's goods and provides the customer with a pricing guideline. There is no contractual commitment to this estimate, and the final charges the customer must pay could be higher or lower than the estimated cost, depending on the actual weight of the shipment, the total time consumed, or physical location at the origin and destination, or other conditions of the move; or~~

~~(2) A **binding estimate** which allows the customer to know in advance what the move will cost, regardless of differences in the actual weight or time to complete the move.~~

~~(a) The basis (such as inventory sheets, tally sheets, special instructions, etc.) used to provide a binding estimate must be attached to the bill of lading.~~

~~(b) Any change to the move, by the customer, that results in an increase in cost must be documented on a supplemental estimate form which also must be attached to the bill of lading.~~

~~(c) A binding estimate cannot exceed the highest authorized tariff rate. If a binding estimate exceeds the highest tariff rate, the carrier may not collect more than the highest authorized tariff rate.)) Every carrier is required to provide a written estimate to every customer prior to moving a shipment of household goods and must issue a written supplemental estimate when required by commission rule or tariff. The carrier must provide estimates by following the requirements set in the commission-published tariff covering household goods movers. The initial estimate may be a binding or nonbinding estimate.~~

~~(1) A binding estimate is the promise of a guaranteed cost of a move from the carrier to the customer. The carrier is bound to charge only the amount of the estimate and no more.~~

~~(2) A nonbinding estimate is an estimate of the amount the carrier will charge to move a customer's household goods. The customer may pay charges in excess of the estimate.~~

~~(3) A supplemental estimate is in addition to any other estimate. A supplemental estimate is required if the circumstances surrounding the move change in a way that causes rates or charges to increase. The customer must accept and sign the supplemental estimate prior to additional work being performed.~~

~~(4) A carrier may provide the hourly rate it charges and the amount of time it believes it will take to make the move. A carrier may provide the rate per unit of weight it charges and the total weight it believes a shipment weighs. However, the carrier must provide a written binding or nonbinding estimate before making the move.~~

~~(5) A carrier may not conduct a move until it has visually inspected the goods to be shipped, unless the customer com-~~

~~pletes a web site calculation or hard-copy calculation sheet as described in subsection (6) of this section, and the carrier has provided a written binding or nonbinding estimate to the customer.~~

~~(6) A carrier may provide an estimate based on a customer-completed web site calculation or customer completed hard-copy calculation sheet if:~~

~~(a) The estimate contains all of the elements required by the tariff.~~

~~(b) The customer electronically "signs" the information provided on the web site by entering the customer's name and the date the information was filled out on the screen. The date must be present and must be entered by the customer.~~

~~(c) The carrier provides the customer with a current copy of the brochure "Your Guide to Moving in Washington State."~~

~~(d) The estimate discloses at the web site or on the hard-copy calculation sheet that:~~

~~(i) The estimate is not binding.~~

~~(ii) The cost of the move may exceed the estimate.~~

~~(iii) The customer will be required to pay up to one hundred ten percent of the estimate upon delivery. Carriers must allow customers at least thirty days from the date of delivery to pay amounts in excess of the one hundred ten percent.~~

~~(iv) The customer is not required to pay more than one hundred twenty-five percent of the estimate regardless of the total cost unless the carrier issues and the customer accepts a supplemental estimate.~~

~~(7) The carrier must complete the estimates as required by tariff.~~

~~(8) All written estimates must be signed and dated by both the carrier and customer prior to the move.~~

AMENDATORY SECTION (Amending General Order No. R-471, Docket No. TV-991559, filed 6/27/00, effective 7/28/00)

WAC 480-15-660 Supplemental estimates. (1) ~~((**When must a household goods carrier prepare a written supplemental estimate?** You))~~ Carriers must provide a written supplemental estimate if ~~((you have given the customer a written estimate and))~~ the circumstances surrounding the move change in any way to cause the rates ~~((for service or the estimated))~~ or charges to increase.

~~(2) ((**What rates must a household goods carrier use to prepare a supplemental estimate?**))~~ When providing a supplemental estimate ~~((you must))~~, a carrier may not apply a higher rate to the articles and services identified in the original estimate. ~~((You))~~ A carrier may choose to use a higher rate for new services or additional articles not included in the original estimate.

~~(3) ((**Must the customer sign the supplemental estimate?** Yes,))~~ The carrier must complete the supplemental estimate as required by tariff.

~~(4) The carrier and the customer must sign the supplemental estimate ~~((or))~~ prior to the additional work ~~((cannot be))~~ being performed.~~

~~((Part 5.3 - Underestimates))~~

~~Part ((5.4)) 5.3 - Bills of Lading~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-710 ~~((What is a))~~ **Bill of lading** ~~((?))~~. (1) A bill of lading is a shipping document issued by the household goods carrier, signed by both the ~~((shipper))~~ customer and the household goods carrier ~~((;))~~ that establishes ~~((the))~~ a legal contract with terms and conditions for a shipment of household goods.

(2) The carrier must issue a bill of lading for each shipment of household goods it transports and must give the customer a completed copy of the bill of lading used for the customer's shipment.

(3) The carrier must include the information in a bill of lading as described in the commission's tariff.

(4) The carrier must keep the bill of lading and all associated documents for three years from the date the move was completed.

~~Part ((5.5)) 5.4 - Weight of Shipment ((Weights))~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-750 ~~((How do I verify the weight of distance-rated shipments of household goods?))~~ **Weight**. ~~((1))~~ You must obtain all tare and loaded weights by having your motor vehicles weighed by a certified weighmaster or on a certified scale;

(2) You must obtain a certified tare weight prior to loading the shipper's goods;

(3) You must obtain a certified loaded weight at the point of origin, or:

(a) If no certified scale is available at the point of origin, you may obtain the loaded weight at the first certified scale located along the route of travel to the destination point; or

(b) If no certified scale is available at the point of origin, at a point along the route to the destination, or at the destination point, you may use the constructive weight of the shipment;

(4) You must obtain a weight or scale ticket from the weighmaster or scale for the tare and loaded weights, and you must maintain a copy of those tickets with the bill of lading for the shipment. The weight ticket must include substantially the same information shown below:

Household Goods Uniform Weight Ticket
Date: _____
Name of carrier: _____
Vehicle identification: _____
Name of shipper: _____
Origin of shipment: _____
Destination of shipment: _____
LOADED WEIGHT of vehicle without the crew _____ #

TARE WEIGHT of vehicle (without the crew on board, including full fuel tank and all necessary pads, chains, hand trucks, and other equipment) _____ #
NET WEIGHT of shipment _____ #

~~The above loaded weight was obtained at~~

Name of scales: _____
Location of scales: _____

~~The above tare weight was obtained at~~

Name of scales: _____
Location of scales: _____

As shown by attached weight ticket(s) prepared by weighmaster(s). List of shipments, if any, on vehicle at time above weights were obtained:

Shipper: _____ Net weight _____
Shipper: _____ Net weight _____
Shipper: _____ Net weight _____

I certify the above entries are true and correct:

(Driver's signature))

Carriers must follow the requirement of the tariff as it applies to weight of the shipment.

~~((Part 5.6 - Refusal of Service))~~

~~Part ((5.7)) 5.5 - Complaint and Claim Procedures~~

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-800 ~~((What must I do if a shipper is not satisfied with my service?))~~ **Customer complaints and claims**. If a ~~((shipper))~~ customer is not satisfied with ~~((your))~~ the carrier's service ~~((; you must allow the shipper to speak with you, or a representative of your company, and you))~~;

(1) The carrier must provide the ~~((shipper))~~ customer with all information and forms necessary to file a complaint or claim.

(2) The ~~((shipper has))~~ customer must file any and all claims for loss or damage within nine months from the actual delivery date ~~((or the date the household goods should have been delivered, to file a claim for loss and damage))~~. In the case of failure to make delivery, the claim must be filed within nine months after the originally scheduled delivery date.

(3) Claims must contain sufficient information to identify the property involved. A copy of the bill of lading must accompany the claim.

(4) The ((shipper)) customer must pay all proper charges for the move prior to filing a claim for loss or damage.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-810 ((What must I do when I receive a complaint or claim?)) Resolving customer complaints or claims. ~~((If your shipper files a complaint or claim concerning loss or damage, or your general service operations, or rates and charges, you))~~ When the carrier receives a complaint or claim, it must:

(1) Notify the customer, in writing, within ten ((work-ing)) business days that ((you have)) it has received the claim or complaint((:)) and advise the customer of the availability of the commission for further review by providing the commission's toll-free number and mailing address: 1-800-562-6150; P.O. Box 47250, Olympia, Washington 98504-7250.

(2) Investigate the ((claim or)) complaint ((quickly:)) or claim.

(3) Advise the ((shipper)) customer of ((your)) the resolution((:and)) of the complaint or claim in writing.

(4) If it is a loss or damage claim, pay the claim, refuse the claim, or make a compromise offer within ((one hundred twenty)) ninety days.

(a) If the carrier cannot resolve a loss or damage claim within ninety days, it must, for each thirty-day period thereafter until the claim is settled, inform the customer, in writing, of the reason it failed to resolve the claim or clearly state its final offer or denial and close the claim and advise the customer of the availability of the commission for further review by providing the commission's toll-free number and mailing address: 1-800-562-6150; P.O. Box 47250, Olympia, Washington 98504-7250.

(b) Maintain a copy of the written correspondence required in (a) of this subsection in the complaint or claim file for three years, as directed by WAC 480-15-830.

(5) The carrier may satisfy any claim by reimbursing the customer or repairing or replacing the property lost or damaged with materials of like kind, quality, and condition.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-830 ((How long must I keep complaint and claim records?)) Complaint and claim records retention. ~~((+ You))~~ Carriers must keep all records and papers relating to complaints or claims ((records for loss or damage, concealed or otherwise:)) for ((six)) three years after the date the complaint or claim is resolved. Carriers must include, at a minimum, the following information in a claim or complaint file:

~~((2) You must keep all records of complaints in your office for not less than three years after the date of the shipment, or date of resolution, whichever is later:))~~ (1) The date the claim or complaint was received.

(2) The name, address and telephone number of the customer.

(3) Detailed information about the dispute.

(4) Details of any action the carrier has taken in response to the claim or complaint.

(5) The date the claim or complaint was resolved and a description of the final resolution.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-890 ((What must I do if the commission refers a complaint to me?)) Commission-referred complaints. ~~((You))~~ When commission staff refers a customer complaint to a carrier, the carrier must:

~~((Respond with complete investigation results))~~ Provide its initial response to commission staff within five business days from the date commission staff referred the complaint to the carrier. The carrier's response must include the results of its investigation into the informal complaint and any document related to the move requested by staff. ((How-ever, small businesses, as defined in WAC 480-15-020, must respond within ten business days. In addition, any person)) The carrier may request and commission staff may ((grant)) allow, if warranted, an extension ((of time for a specific number of days:)) to the initial response due date.

(2) Respond to commission staff inquiries ((regarding)) requesting additional information or documentation relevant to the informal complaint((:and)) within five business days.

(3) Keep ((the)) commission staff currently informed of any progress made in resolving ((the complaint)) a claim for loss or damages not resolved within the first ninety-day period of the claim by informing staff in writing, for each thirty-day period thereafter, of the reason for failure to resolve the claim.

AMENDATORY SECTION (Amending Order R-454, Docket No. TV-971477, filed 12/15/98, effective 1/15/99)

WAC 480-15-900 ((General)) Requirements for interstate operations. ~~((+))~~ **General requirements:** No household goods carrier may operate any motor vehicle or combination of motor vehicles over the public ((highways)) roads of this state in interstate commerce unless the ((household goods)) carrier has met all of the following requirements:

~~((a))~~ (1) Obtained the appropriate operating authority from the U.S. Department of Transportation (USDOT) or its successor agency((, if operating as a registered carrier:)).

~~((b))~~ (2) Obtained valid insurance as required by USDOT((:)).

~~((c))~~ (i) Registered with a base state as required by 49 CFR Part 1023, if operating as a registered carrier; or

(ii) Registered with the commission if operating as a registered exempt carrier; and

(d) Paid the annual Washington state registration fee for the vehicle.

(2) **Applicable laws and rules:**

~~(a) When conducting interstate operations, registered and registered exempt carriers and the motor vehicles they operate must comply with the laws and rules that apply to interstate operations.~~

~~(b) When conducting Washington intrastate operations, registered and registered exempt carriers and the motor vehicles they operate must comply with the laws and rules that apply to intrastate operations)) (3) Participated in any program administered by the commission for registering, paying fees or otherwise regulating interstate motor freight carriers as provided by USDOT or its successor agency.~~

WAC 480-15-250

What is the process to expand the authority in an existing permit?

WAC 480-15-260

Exceptions to the application process.

WAC 480-15-300

What conditions may be attached to my temporary authority?

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-15-440

What happens if my permit is suspended for cause?

WAC 480-15-060

How may I contact the commission?

WAC 480-15-460

What happens if my permit is canceled for cause?

WAC 480-15-070

Where is the commission located?

WAC 480-15-470

Rule books.

WAC 480-15-080

How do I file documents with the commission?

WAC 480-15-540

What happens if my insurance filing is canceled?

WAC 480-15-090

May I submit information to the commission confidentially?

WAC 480-15-580

Accident reporting.

WAC 480-15-100

What form of payment does the commission accept?

WAC 480-15-640

Verbal estimates.

WAC 480-15-110

If I change my business address or telephone number, must I notify the commission?

WAC 480-15-650

Form of estimates.

WAC 480-15-120

What rules apply to commission proceedings?

WAC 480-15-670

Exceptions for nonbinding estimates.

WAC 480-15-130

What is the commission's compliance policy?

WAC 480-15-680

Am I required to provide an accurate estimate?

WAC 480-15-140

How will the commission enforce this chapter?

WAC 480-15-690

What will happen if I underestimate a household goods move?

WAC 480-15-150

Why would the commission take administrative action?

WAC 480-15-700

What are the commission's guidelines in deciding to assess monetary penalties for underestimating?

WAC 480-15-160

What sanctions apply to carriers operating without valid permits?

WAC 480-15-720

Who must issue bills of lading?

WAC 480-15-170

What is a household goods permit?

WAC 480-15-730

What is the format for bills of lading?

WAC 480-15-195

When will my existing household goods permit be reissued?

WAC 480-15-740

Information required on a bill of lading.

WAC 480-15-200

Are there areas I may operate without a permit?

WAC 480-15-760

What are my responsibilities to notify the shipper of the actual weight and charges for the shipment?

WAC 480-15-210

Are there different kinds of household goods permits?

WAC 480-15-770

Must I reweigh the shipment at the point of delivery if the shipper requests it?

WAC 480-15-220

How do I apply for a permit?

WAC 480-15-780

When may I refuse to provide service to a shipper?

WAC 480-15-240

How may a new entrant obtain authority?

WAC 480-15-790

When must I not refuse service?

WAC 480-15-795

Payment options.

- WAC 480-15-820 What must I do if I cannot resolve a claim within one hundred twenty days?
- WAC 480-15-840 Are complaint or claim records subject to commission review and in what order must I keep the records?
- WAC 480-15-850 What additional requirements exist if a claim involves more than one carrier?
- WAC 480-15-860 What information must be included in the claim or complaint record?
- WAC 480-15-870 What must I do if, after review, the shipper is still dissatisfied with the resolution of the complaint or claim?
- WAC 480-15-880 Must I respond to all written correspondence, complaints and claims?
- WAC 480-15-910 How do I register as a registered carrier?
- WAC 480-15-920 How do I register as a registered exempt carrier?
- WAC 480-15-930 Registration fee and receipts.
- WAC 480-15-940 Insurance requirements for interstate operations.

Adopted under notice filed as WSR 07-22-066 on November 2, 2007.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, 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 1, Repealed 0.

Date Adopted: December 21, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-24-025 and 07-01-023, filed 11/29/06 and 12/8/06, effective 10/1/07)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance, family-related medical, or Basic Food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Only receive Refugee Cash Assistance as described under WAC 388-400-0030; or

(ii) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for Basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) **When we send the review form:**

If you must complete a MCR...	We send your review form...
(a) For one program such as Basic Food or Family Medical.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.

WSR 08-02-053

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 28, 2007, 9:00 a.m., effective February 1, 2008]

Effective Date of Rule: February 1, 2008.

Purpose: The department is amending WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? The amended rule updates requirements for a mid-certification review to be considered complete for temporary assistance for needy families (TANF) and state family assistance (SFA). These amendments are necessary to meet the federal work verification requirements under Public Law 109-171 and the TANF Interim Final Rules issued on June 29, 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Other Authority: Public Law 109-171, TANF Interim Final Rule published in the Federal Register - Volume 71, No. 125 on June 29, 2006.

If you must complete a MCR...	We send your review form...
(c) For Basic Food and another program when either program has a certification or review period between six and twelve months.	In the fifth month of your Basic Food certification period when you receive Basic Food and another program. You must complete your review by the 10th day of month six of your Basic Food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review in ~~((on one))~~ one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

- (i) ~~((Complete [Complete]))~~ Complete the review form, telling us about changes in your circumstances we ask about;
- (ii) Sign and date the form;
- (iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive family medical benefits, give us proof of your income even if it has not changed; ~~((and))~~

(v) If you receive Temporary Assistance for Needy Families and you are working or self employed, you must give us proof of your income even if it has not changed; and

(vi) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

- (i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;
- (ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;
- (iii) If you receive family medical benefits, give us proof of your income even if it has not changed;
- (iv) If you receive Temporary Assistance for Needy Families and you are working or self employed, you must give us proof of your income ~~((and the hours you work))~~ even if it has not changed; and

(v) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you ten days notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

WSR 08-02-054
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed December 28, 2007, 9:02 a.m., effective February 1, 2008]

Effective Date of Rule: February 1, 2008.

Purpose: The department is amending WAC 388-450-0215 How does the department estimate my assistance unit's income to determine my eligibility and benefits? These amendments will provide provisions for budgeting income that is received less frequently than monthly (i.e., income received quarterly or annually). The proposed amendment also changes the budgeting requirements for children's and pregnancy medical programs. In addition, the section is updated to comply with the governor's plain talk initiative.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0215.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Adopted under notice filed as WSR 07-22-064 on November 2, 2007.

Changes Other than Editing from Proposed to Adopted Version: Subsection (4) We use one of two methods to estimate ((your AU's)) income:

(a) **Anticipating monthly income (AM):** ((We estimate the actual amount of income you expect)) With this method, we base the estimate on the actual income we expect your AU to receive in the month (see subsection 5); and

(b) **Averaging income (CA):** ((We estimate your income based on adding the total income you expect to receive for a period of time and dividing)) With this method, we add the total income we expect your AU to receive for a period of time and divide by the number of months in the ((time)) period (see subsection 6).

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

Recently Enacted State Statutes: New 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: December 21, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-16-109, filed 8/2/05, effective 10/1/05)

WAC 388-450-0215 How does the department estimate my assistance unit's income to determine my eligibility and benefits? ((The department uses prospective budgeting to determine if your assistance unit (AU) is eligible and to calculate your benefits.))

(1) We ((determine if your AU is eligible for benefits and calculate your monthly benefits based on an estimate of your AU's income and expenses for that month)) decide if your assistance unit (AU) is eligible for benefits and calculate your monthly benefits based on an estimate of your AU's gross monthly income and expenses. This is known as prospective budgeting.

(2) We ((base this estimate on what can be reasonably expected based on your current, past and future circumstances)) use your current, past, and future circumstances for a representative estimate of your monthly income.

(3) We ((determine if our estimate is reasonable by looking at documents, statements, and other verification)) may need proof of your circumstances to ensure our estimate is reasonable. This may include documents, statements from other people, or other proof as explained in WAC 388-490-0005.

(4) We use one of two methods to estimate ((your AU's)) income:

(a) **Anticipating monthly income (AM):** ((We estimate the actual amount of income you expect)) With this method, we base the estimate on the actual income we expect your AU to receive in the month (see subsection (5)); and

(b) **Averaging income (CA):** ((We estimate your income based on adding the total income you expect to receive for a period of time and dividing)) With this method, we add the total income we expect your AU to receive for a period of time and divide by the number of months in the ((time)) period (see subsection (6)).

(5) ((When we use the anticipating monthly method, we estimate the actual amount of income your AU expects to receive in the month. Your benefits will vary based on the income that is expected for that month)) Anticipating monthly income: We must use the anticipating monthly method:

(a) For the month you apply for benefits unless:

(i) We are determining eligibility for children's medical programs as listed in WAC 388-505-0210 (3) through (6) or pregnancy medical as listed in WAC 388-462-0015. For children's and pregnancy medical we can use either method: or

(ii) You are paid less often than monthly (for example: you are paid quarterly or annually). If you are paid less often than monthly, we average your income for the month you apply. Section (6) explains how we average your income.

(b) When we estimate income for anyone in your AU, if you or anyone in your AU receive SSI-related medical benefits under chapter 388-475 WAC.

(c) When we must allocate income to someone who is receiving SSI-related medical benefits under chapter 388-475 WAC.

(d) When you are a destitute migrant or destitute seasonal farmworker under WAC 388-406-0021. In this situation, we must use anticipating monthly (AM) for all your AU's income.

(e) To budget SSI or social security benefits even if we average other sources of income your AU receives.

(6) ((In general, you can choose which method we use to estimate your income. However, we **must** use the anticipating monthly method:

(a) For the month you apply for benefits, any income your AU receives in that month. If we do not have to use the anticipating monthly method for any other reason, we may average this income source for the remaining months of your certification period.

(b) For all your AU's income in the following circumstances:

(i) If you receive SSI-related medical benefits under chapter 388-475 WAC; or

(ii) If you are a destitute migrant or destitute seasonal farmworker under WAC 388-406-0021, we must use the anticipating monthly method for the month your AU applied for benefits.

(c) For the income of any member of your AU who has income allocated to someone receiving SSI-related medical benefits under chapter 388-475 WAC;

(d) For the following sources of income to your AU:

(i) SSI; or

(ii) Social Security benefits)) Averaging income: When we average your income, we consider changes we expect for your AU's income. We determine a monthly amount of your income based on how often you are paid:

(a) If you are paid weekly, we multiply your expected income by 4.3;

(b) If you are paid every other week, we multiply your expected income by 2.15;

(c) In most cases if you receive your income other than weekly or every other week, we estimate your income over your certification period by:

(i) Adding the total income for representative period of time;

(ii) Dividing by the number of months in the timeframe; and

(iii) Using the result as a monthly average.

(d) If you receive your yearly income over less than a year because you are self employed or work under a contract, we average this income over the year unless you are:

(i) Paid on an hourly or piecework basis; or

(ii) A migrant or seasonal farmworker under WAC 388-406-0021.

~~(7) ((When we use the averaging method, we take the expected changes in your AU's income into consideration so your benefits do not change as much:~~

~~(a) If you receive your income weekly or every other week, we convert this income to a monthly amount. If you are paid:~~

~~(i) Weekly, we multiply your expected pay by 4.3; or~~

~~(ii) Every other week, we multiply your expected pay by 2.15.~~

~~(b) In most cases if you receive your income other than weekly or every other week, we estimate your expected income over the certification period by:~~

~~(i) Adding the total income in a representative time period;~~

~~(ii) Dividing by the number of pay periods in the time frame; and~~

~~(iii) Determining the monthly average from this amount.~~

~~(c) If you receive your yearly income over less than a year because you are self employed or work under a contract, we average this income over the year unless you are:~~

~~(i) Paid on an hourly or piecework basis; or~~

~~(ii) A migrant or seasonal farmworker under WAC 388-406-0021)) If we used the anticipating monthly income method for the month you applied for benefits, we may average your income for the rest of your certification period if we do not have to use this method for any other reason in section (5).~~

~~(8) If you report a change in your AU's income, and we expect the change to last ((for at least a month beyond the month you reported the change, we recalculate)) through the end of the next month after you reported it, we update the estimate of your AU's income based on this change.~~

~~(9) If your actual income is different than the income we estimated, we ((do not)) don't make you repay an overpayment under chapter 388-410 WAC or increase your benefits unless you meet one of the following conditions:~~

~~(a) You provided incomplete or false information; or~~

~~(b) We made an error in calculating your benefits.~~

WSR 08-02-055

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 28, 2007, 9:03 a.m., effective February 1, 2008]

Effective Date of Rule: February 1, 2008.

Purpose: The department is amending WAC 388-310-1450 WorkFirst—WorkFirst pregnancy to employment and 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. These rule changes are necessary to comply with chapter 289, Laws of 2007 (2SSB 6016)

exempting parents with an infant under age of one year from WorkFirst participation for a maximum of twelve months over the parent's lifetime.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0300 and 388-310-1450.

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

Other Authority: 2SSB 6016, chapter 289, Laws of 2007.

Adopted under notice filed as WSR 07-22-067 on November 2, 2007.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-310-1450 (2)(a)(ii) deleted "Reliable and affordable" and replaced it with "Safe and appropriate," and

(6) ...If you have another child after using all 12 months of the infant exemption, you will be:

(a) Eligible for a twelve-week...

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: December 21, 2007.

Stephanie E. Schiller

Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-14-087, filed 6/28/02, effective 7/29/02)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) ~~((If I am a mandatory participant,))~~ When can I be exempted from participating in WorkFirst activities if I am a mandatory participant?

~~((and))~~ Either you or the other parent (living in the household) can claim an infant exemption from participating in WorkFirst activities ((during months that you are needed in the home to personally provide care for your child under four months of age.)) provided you:

(a) Have a child under one year of age;

~~((You or the other parent of your child, living in your household can claim a one-time exemption from full-time participation, for one child only, if that child is between the age of four months and up to twelve months old. This means the parent who claims this exemption will only be required to participate part-time, up to twenty hours in certain activities described in WAC 388-310-1450))~~ Choose to not fully par-

participate in the WorkFirst program (see WAC 388-310-0400); and

(c) Have not used up your lifetime twelve-month infant exemption.

(2) ((Can I participate in WorkFirst while I am exempt)) If I choose my infant exemption, can I still be required to participate in the WorkFirst program?

You are required to participate up to twenty hours per week in mental health and/or chemical dependency treatment if:

(a) ((You may choose to participate in WorkFirst while you are exempt with a child under four months old. If you decide later to stop participating, and you still qualify for an exemption, you will be put back into exempt status with no financial penalty. For a description of participation activities see WAC 388-310-1450-)) The comprehensive evaluation or assessment indicates a need; and

(b) ((You may choose to participate full time while you are taking your one-time/part-time exemption. If you decide later to stop participating full time, and you still qualify for the part-time exemption, you will be put back into part-time exempt status with no financial penalty. For a description of participation activities see WAC 388-310-1450)) Services are available in your community.

(3) Can I volunteer to participate in WorkFirst while I have a child under one?

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under one year of age. If you decide later to stop participating and you still qualify for an exemption, you will be put back into exempt status with no financial penalty provided you meet conditions (1) and (2) above.

(4) Does an infant exemption from participation affect my sixty-month time limit for receiving TANF or SFA benefits?

((An exemption from participation does not affect your sixty-month time limit for receiving TANF or SFA benefits (described in WAC 388-484-0005-)) Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your sixty-month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 02-14-087, filed 6/28/02, effective 7/29/02)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on TANF/SFA and are pregnant or have a child under the age of ~~((twelve months))~~ one year, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

(a) The pregnancy to employment pathway provides you with services, when available in your community, to help you learn how to work, look for work, or prepare for work while still meeting your child's needs. You and your case manager or social worker will decide which variety of services you need such as:

(i) Parenting education or parenting skills training;

(ii) Safe and appropriate child care;

(iii) Mental health treatment;

(iv) Chemical dependency treatment;

(v) Domestic violence services; or

(vi) Employment services.

(b) The case manager or social worker will contact you every three months to offer you services if you are not required to participate and choose to claim the infant exemption.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You ~~((will receive))~~ must participate in an assessment ~~((from))~~ with a DSHS social worker ~~((-))~~ and based on the results ~~((of the assessment))~~ you ~~((receive as a pregnancy to employment participant, you and))~~ will:

(a) Work with your case manager/social worker ((will)) to decide ((how you will be)) which required ((to participate and which)) activities best meet your needs. These activities ((you are required to do)) will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP).

(b) Be required to participate in the activities identified in your IRP.

~~((=))~~ **(4) What am I required to do while I am pregnant?**

Based upon the results of your assessment, your participation:

(a) ~~((In the))~~ During your first and second trimester of pregnancy will be ~~((: Your participation is based upon the results of the assessment you receive and includes work, looking for work or a combination of pregnancy to employment services. You will be required to participate))~~ full-time ((during the first two trimesters of pregnancy)) work, looking for work, or preparing for work unless you have a good reason to participate fewer hours (see WAC 388-310-1600).

(b) ~~((In the))~~ During your third trimester of pregnancy will be ~~((: Your participation is voluntary and may include meeting your medical needs))~~ up to twenty hours per week in mental health and/or chemical dependency treatment if:

(i) The comprehensive evaluation or assessment indicates a need; and

(ii) Services are available in your community.

~~((=))~~ **(5) What am I required to do after my child is born?**

~~((You are exempt from participation))~~ After the birth of your child ((and until your child reaches the age of four months. You may)), you may choose to take the infant exemption (See WAC 388-310-0300) or volunteer to participate in WorkFirst activities ((while you are exempt)) to the fullest of your abilities (see WAC ((388-310-0300)) 388-310-0400).

~~((=))~~ **(6) ((Do I have to participate full time once my child reaches age four months)) What if I have used my twelve-month lifetime infant exemption?**

~~((Once your child reaches four months old, you are required to participate full time unless you qualify for the one-time exemption from full-time participation. This exemption is called a part-time exemption and you can only receive it once for one child who is between four and up to~~

twelve months old)) If you have another child after using all twelve months of the infant exemption, you will be:

(a) Eligible for a twelve-week postpartum deferral period to personally take care of an infant less than twelve weeks of age. During the twelve-week postpartum deferral period, you will be required to participate up to twenty hours per week in mental health and/or chemical dependency treatment if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required (unless otherwise exempt or you have good reason to participate fewer hours) to participate full-time, once your child turns twelve-weeks old. Activities in which you are required to participate include one or more of the following:

(i) Work;

(ii) Looking for work; or

(iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

~~((6) How do I qualify for the part-time exemption?~~

~~Effective June 13, 2002, you can be exempt one time only, from full-time participation, if you have a child age four months to twelve months old.))~~

~~(7) ((If I qualify for the part-time exemption, what will I be required to do?~~

~~You will have to participate part-time for up to twenty hours per week (per state law) until your child reaches twelve months old. During this time, you will be required, based upon the results of your assessment, to participate in one or more of the following:~~

~~(a) Instruction or training to improve your parenting skills or child well-being (if available);~~

~~(b) Preemployment or job readiness training;~~

~~(c) High school completion or GED program;~~

~~(d) Volunteer in a child care facility licensed under chapter 74.15 RCW. The child care facility has to agree to accept you as a volunteer; or~~

~~(e) Volunteer to participate in job search or work activities full-time or part-time. If you change your mind about job search or work activities you will be required to participate up to twenty hours in one of the required activities listed above.~~

~~(8)) ((What if I have used my one-time part-time exemption from full-time participation)) Will I be sanctioned if I refuse to participate?~~

~~((If you have used your one-time, part-time exemption and you have another child, when that child is between four months and twelve months old, you will be required to participate full-time in one or more of the following activities:~~

~~(a) Work;~~

~~(b) Looking for work; or~~

~~(c) Preparing for work by participating in a combination of activities based upon the results of your assessment)) (a) You are required to participate in the WorkFirst program (see WAC 388-310-0200) subject to sanction (see WAC 388-310-1600) unless you have good reason and you:~~

~~(i) Are in your third trimester of pregnancy; or~~

~~(ii) Have not used up your twelve-month lifetime infant exemption and have a child under the age of one year; or~~

~~(iii) Have used up your twelve-month lifetime infant exemption and have a child under twelve weeks.~~

(b) You may be sanctioned if you stop participating in required mental health and/or chemical dependency treatment even if you are in your third trimester, claiming the infant exemption, or using a twelve-week postpartum deferral period.

~~((9) What services are provided in the pregnancy to employment?~~

~~This pathway provides you with services, as available within your community, to help you learn how to work while still meeting your child's needs. You and your case manager will decide which of the variety of services you need, such as help finding:~~

~~(a) Parenting classes;~~

~~(b) Safe and appropriate child care;~~

~~(c) Good health care for yourself and your child; and/or~~

~~(d) Employment services.~~

~~(e) If you are currently employed you will receive the assessment at your next individual responsibility plan review.~~

~~(10) What determines which services I will receive and what my participation will be?~~

~~(a) Your assessment results (see WAC 388-310-0700) determine the services, as available within your community, that you will receive;~~

~~(b) An individual responsibility plan will be developed jointly that reflects participation and services available to meet your needs and the needs of your child; and~~

~~(c) Follow up contact every three months to jointly reassess your needs and the services and activities you are participating in, until your child reaches age twelve months.~~

~~(11) Will I be sanctioned if I refuse to participate in pregnancy to employment pathway?~~

~~(a) If you are a pregnant woman in your third trimester of pregnancy or if you have an infant less than three months old you will not be sanctioned for not participating.~~

~~(b) If you are in the first two trimesters of your pregnancy or have a child four months of age or older, you are required to participate and are subject to the WorkFirst sanction rules (see WAC 388-310-1600).~~

~~(12) What if I have a child between the ages of four months and twelve months but I have a good reason not to participate?~~

~~If you have a good reason not to participate and you claim good cause (WAC 388-310-1600(3)), your needs will be assessed as soon as possible, but no later than ninety days from your request. A good cause determination will establish if you will be required to participate and the types of services that will best meet your needs.))~~

WSR 08-02-063

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 28, 2007, 1:58 p.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The forest land value rule is required by statute (RCW 84.33.140) to be effective on January 1, 2008.

Purpose: WAC 458-40-540 contains the forest land values, which must be adjusted annually by a statutory formula contained in RCW 84.33.140(3). This rule has been amended to provide county assessors with property tax land values for the 2008 assessment year.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-540 Forestland values.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 07-22-103 on November 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 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: December 28, 2007.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending WSR 07-02-038, filed 12/26/06, effective 1/1/07)

WAC 458-40-540 Forest land values—((2007)) 2008. The forest land values, per acre, for each grade of forest land for the ((2007)) 2008 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2007)) 2008 VALUES ROUNDED
1	1	\$((204)) 205
	2	((199)) 203
	3	((188)) 191
	4	((136)) 138
2	1	((169)) 172
	2	((164)) 167
	3	((157)) 160
	4	((113)) 115
3	1	((133)) 135
	2	((129)) 131
	3	((128)) 130
	4	((97)) 99

LAND GRADE	OPERABILITY CLASS	((2007)) 2008 VALUES ROUNDED
4	1	((101)) 103
	2	((98)) 100
	3	((97)) 99
	4	((75)) 76
5	1	((74)) 75
	2	((67)) 68
	3	((66)) 67
	4	((45)) 46
6	1	((37)) 38
	2	((34)) 35
	3	((34)) 35
	4	((32)) 33
7	1	17
	2	17
	3	16
	4	16
8		1

**WSR 08-02-064
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed December 28, 2007, 1:59 p.m., effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The stumpage value rule is required by statute (RCW 84.33.091) to be effective on January 1, 2008.

Purpose: WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to provide the stumpage values to be used during the first half of 2008.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 07-22-104 on November 6, 2007.

A final cost-benefit analysis is available by contacting Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6133, fax (360) 586-0127, e-mail markbohe@dor.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 28, 2007.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending WSR 07-14-095, filed 6/29/07, effective 7/1/07)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction. This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) Stumpage value tables. The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July)) January 1 through ((December 31, 2007)) June 30, 2008:

**((TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 2007**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$518	\$511	\$504	\$497	\$490
		2	453	446	439	432	425
		3	448	441	434	427	420
		4	448	441	434	427	420
Western Redcedar ⁽²⁾	RC	1	715	708	701	694	687
Western Hemlock ⁽²⁾	WH	1	316	309	302	295	288
		2	305	298	291	284	277
		3	298	291	284	277	270
		4	298	291	284	277	270
Red Alder	RA	1	544	537	530	523	516
		2	510	503	496	489	482
Black Cottonwood	BC	1	72	65	58	51	44
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles & Piles	DFL	1	753	746	739	732	725
Western Redcedar Poles	RCL	1	1224	1217	1210	1203	1196
Chipwood ⁽⁴⁾	CHW	1	5	4	3	2	1

**((TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 2007**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	FFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska Cedar.

⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.

⁽⁴⁾ Stumpage value per ton.

⁽⁵⁾ Stumpage value per cord.

⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 2007**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$518	\$511	\$504	\$497	\$490
		2	458	451	444	437	430
		3	458	451	444	437	430
		4	458	451	444	437	430
Western Redcedar ⁽²⁾	RC	1	715	708	701	694	687
Western Hemlock ⁽²⁾	WH	1	316	309	302	295	288
		2	316	309	302	295	288
		3	315	308	301	294	287
		4	315	308	301	294	287
Red Alder	RA	1	544	537	530	523	516
		2	510	503	496	489	482
Black Cottonwood	BC	1	72	65	58	51	44
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles & Piles	DFL	1	753	746	739	732	725
Western Redcedar Poles	RCL	1	1224	1217	1210	1203	1196

**TABLE 2 Proposed Stumpage Value Table
Stumpage Value Area 2**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Chipwood ⁽⁴⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Alaska Cedar.
- ⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- ⁽⁴⁾ Stumpage value per ton.
- ⁽⁵⁾ Stumpage value per cord.
- ⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 3 Proposed Stumpage Value Table
Stumpage Value Area 3**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$518	\$511	\$504	\$497	\$490
		2	493	486	479	472	465
		3	479	472	465	458	451
		4	464	457	450	443	436
Western Redcedar ⁽³⁾	RC	1	715	708	701	694	687
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	316	309	302	295	288
		2	316	309	302	295	288
		3	313	306	299	292	285
		4	313	306	299	292	285
Red Alder	RA	1	544	537	530	523	516
		2	510	503	496	489	482
Black Cottonwood	BC	1	72	65	58	51	44
Other Hardwood	OH	1	165	158	151	144	137

Permanent

**TABLE 3 Proposed Stumpage Value Table
Stumpage Value Area 3**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir Poles & Piles	DFL	1	753	746	739	732	725
Western Redcedar Poles	RCL	1	1224	1217	1210	1203	1196
Chipwood ⁽²⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Western Larch.
- ⁽³⁾ Includes Alaska Cedar.
- ⁽⁴⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- ⁽⁵⁾ Stumpage value per ton.
- ⁽⁶⁾ Stumpage value per cord.
- ⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 4 Proposed Stumpage Value Table
Stumpage Value Area 4**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$575	\$568	\$561	\$554	\$547
		2	498	491	484	477	470
		3	479	472	465	458	451
		4	461	454	447	440	433
Lodgepole Pine	LP	1	264	257	250	243	236
Ponderosa Pine	PP	1	296	289	282	275	268
		2	208	201	194	187	180
Western Redcedar ⁽³⁾	RC	1	715	708	701	694	687
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	345	338	331	324	317
		2	345	338	331	324	317

**TABLE 4 Proposed Stumpage Value Table
Stumpage Value Area 4**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		3	345	338	331	324	317
		4	345	338	331	324	317
Red Alder	RA	1	544	537	530	523	516
		2	510	503	496	489	482
Black Cottonwood	BC	1	72	65	58	51	44
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles & Piles	DFL	1	753	746	739	732	725
Western Redcedar Poles	RCL	1	1224	1217	1210	1203	1196
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 5 Proposed Stumpage Value Table
Stumpage Value Area 5**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$528	\$521	\$514	\$507	\$500
		2	467	460	453	446	439
		3	467	460	453	446	439
		4	390	383	376	369	362

**TABLE 5 Proposed Stumpage Value Table
Stumpage Value Area 5**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Lodgepole Pine	LP	1	264	257	250	243	236
Ponderosa Pine	PP	1	296	289	282	275	268
		2	208	201	194	187	180
Western Redcedar ⁽³⁾	RC	1	715	708	701	694	687
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	316	309	302	295	288
		2	307	300	293	286	279
		3	293	286	279	272	265
		4	217	210	203	196	189
Red Alder	RA	1	544	537	530	523	516
		2	510	503	496	489	482
Black Cottonwood	BC	1	72	65	58	51	44
Other Hardwood	OH	1	165	158	151	144	137
Douglas-Fir Poles & Piles	DFL	1	753	746	739	732	725
Western Redcedar Poles	RCL	1	1224	1217	1210	1203	1196
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table
Stumpage Value Area 6**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$349	\$342	\$335	\$328	\$321
Lodgepole Pine	LP	1	264	257	250	243	236
Ponderosa Pine	PP	1	296	289	282	275	268
		2	208	201	194	187	180
Western Redcedar ⁽³⁾	RC	1	504	497	490	483	476
True Firs and Spruce ⁽⁴⁾	WH	1	259	252	245	238	231
Western White Pine	WP	1	256	249	242	235	228
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	632	625	618	611	604
Small Logs ⁽⁵⁾	SML	1	33	32	31	30	29
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁹⁾ Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table
Stumpage Value Area 7**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$349	\$342	\$335	\$328	\$321
Lodgepole Pine	LP	1	264	257	250	243	236
Ponderosa Pine	PP	1	296	289	282	275	268
		2	208	201	194	187	180
Western Redcedar ⁽³⁾	RC	1	504	497	490	483	476
True Firs and Spruce ⁽⁴⁾	WH	1	259	252	245	238	231
Western White Pine	WP	1	256	249	242	235	228
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	632	625	618	611	604
Small Logs ⁽⁵⁾	SML	1	33	32	31	30	29
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁹⁾ Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table
Stumpage Value Area 10**
July 1 through December 31, 2007

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$561	\$554	\$547	\$540	\$533
		2	484	477	470	463	456
		3	465	458	451	444	437
		4	447	440	433	426	419
Lodgepole Pine	LP	1	264	257	250	243	236
Ponderosa Pine	PP	1	296	289	282	275	268
		2	208	201	194	187	180
Western Redcedar ⁽²⁾	RC	1	701	694	687	680	673
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	331	324	317	310	303
		2	331	324	317	310	303
		3	331	324	317	310	303
		4	331	324	317	310	303
Red Alder	RA	1	530	523	516	509	502
		2	496	489	482	475	468
Black Cottonwood	BC	1	58	51	44	37	30
Other Hardwood	OH	1	151	144	137	130	123
Douglas-Fir Poles & Piles	DFL	1	739	732	725	718	711
Western Redcedar Poles	RCL	1	1210	1203	1196	1189	1182
Chipwood ⁽⁵⁾	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.)

**TABLE 1—Proposed Stumpage Value Table
Stumpage Value Area 1**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$481	\$474	\$467	\$460	\$453
		2	413	406	399	392	385
		3	400	393	386	379	372
		4	350	343	336	329	322
Western Redcedar ⁽²⁾	RC	1	736	729	722	715	708
Western Hemlock ⁽³⁾	WH	1	300	293	286	279	272
		2	300	293	286	279	272
		3	295	288	281	274	267
		4	295	288	281	274	267
Red Alder	RA	1	719	712	705	698	691
		2	647	640	633	626	619
Black Cottonwood	BC	1	57	50	43	36	29
Other Hardwood	OH	1	181	174	167	160	153
Douglas-Fir Poles & Piles	DFL	1	774	767	760	753	746
Western Redcedar Poles	RCL	1	1384	1377	1370	1363	1356
Chipwood ⁽⁴⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	279	272	265	258	251
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Alaska Cedar.
⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
⁽⁴⁾ Stumpage value per ton.
⁽⁵⁾ Stumpage value per cord.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table
Stumpage Value Area 2**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$562	\$555	\$548	\$541	\$534
		2	428	421	414	407	400
		3	427	420	413	406	399
		4	398	391	384	377	370
Western Redcedar ⁽²⁾	RC	1	736	729	722	715	708
Western Hemlock ⁽³⁾	WH	1	346	339	332	325	318
		2	346	339	332	325	318
		3	312	305	298	291	284
		4	312	305	298	291	284
Red Alder	RA	1	719	712	705	698	691
		2	647	640	633	626	619
Black Cottonwood	BC	1	57	50	43	36	29
Other Hardwood	OH	1	181	174	167	160	153
Douglas-Fir Poles & Piles	DFL	1	774	767	760	753	746
Western Redcedar Poles	RCL	1	1384	1377	1370	1363	1356
Chipwood ⁽⁴⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	279	272	265	258	251
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Alaska-Cedar.
⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
⁽⁴⁾ Stumpage value per ton.
⁽⁵⁾ Stumpage value per cord.
⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁷⁾ Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table
Stumpage Value Area 3**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$461	\$454	\$447	\$440	\$433
		2	444	437	430	423	416
		3	443	436	429	422	415
		4	371	364	357	350	343
Western Redcedar ⁽³⁾	RC	1	736	729	722	715	708
Western Hemlock ⁽⁴⁾	WH	1	346	339	332	325	318
		2	346	339	332	325	318
		3	288	281	274	267	260
		4	274	267	260	253	246
Red Alder	RA	1	719	712	705	698	691
		2	647	640	633	626	619
Black Cottonwood	BC	1	57	50	43	36	29
Other Hardwood	OH	1	181	174	167	160	153
Douglas-Fir Poles & Piles	DFL	1	774	767	760	753	746
Western Redcedar Poles	RCL	1	1384	1377	1370	1363	1356
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	279	272	265	258	251
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table
Stumpage Value Area 4**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$589	\$582	\$575	\$568	\$561
		2	462	455	448	441	434
		3	443	436	429	422	415
		4	327	320	313	306	299
Lodgepole Pine	LP	1	238	231	224	217	210
Ponderosa Pine	PP	1	285	278	271	264	257
		2	198	191	184	177	170
Western Redcedar ⁽³⁾	RC	1	736	729	722	715	708
Western Hemlock ⁽⁴⁾	WH	1	338	331	324	317	310
		2	338	331	324	317	310
		3	338	331	324	317	310
		4	338	331	324	317	310
Red Alder	RA	1	719	712	705	698	691
		2	647	640	633	626	619
Black Cottonwood	BC	1	57	50	43	36	29
Other Hardwood	OH	1	181	174	167	160	153
Douglas-Fir Poles & Piles	DFL	1	774	767	760	753	746
Western Redcedar Poles	RCL	1	1384	1377	1370	1363	1356
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	279	272	265	258	251
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 5—Proposed Stumpage Value Table
Stumpage Value Area 5**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$616	\$609	\$602	\$595	\$588
		2	444	437	430	423	416
		3	374	367	360	353	346
		4	371	364	357	350	343
Lodgepole Pine	LP	1	238	231	224	217	210
Ponderosa Pine	PP	1	285	278	271	264	257
		2	198	191	184	177	170
Western Redcedar ⁽³⁾	RC	1	736	729	722	715	708
Western Hemlock ⁽⁴⁾	WH	1	290	283	276	269	262
		2	290	283	276	269	262
		3	290	283	276	269	262
		4	290	283	276	269	262
Red Alder	RA	1	719	712	705	698	691
		2	647	640	633	626	619
Black Cottonwood	BC	1	57	50	43	36	29
Other Hardwood	OH	1	181	174	167	160	153
Douglas-Fir Poles & Piles	DFL	1	774	767	760	753	746
Western Redcedar Poles	RCL	1	1384	1377	1370	1363	1356
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	279	272	265	258	251
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$296	\$289	\$282	\$275	\$268
Lodgepole Pine	LP	1	238	231	224	217	210
Ponderosa Pine	PP	1	285	278	271	264	257
		2	198	191	184	177	170
Western Redcedar ⁽³⁾	RC	1	596	589	582	575	568
True Firs and Spruce ⁽⁴⁾	WH	1	230	223	216	209	202
Western White Pine	WP	1	252	245	238	231	224
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	632	625	618	611	604
Small Logs ⁽⁵⁾	SML	1	32	31	30	29	28
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

**TABLE 7—Proposed Stumpage Value Table
Stumpage Value Area 7**
January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$296	\$289	\$282	\$275	\$268
Lodgepole Pine	LP	1	238	231	224	217	210
Ponderosa Pine	PP	1	285	278	271	264	257
		2	198	191	184	177	170
Western Redcedar ⁽³⁾	RC	1	596	589	582	575	568
True Firs and Spruce ⁽⁴⁾	WH	1	230	223	216	209	202
Western White Pine	WP	1	252	245	238	231	224
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	632	625	618	611	604
Small Logs ⁽⁵⁾	SML	1	32	31	30	29	28
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCF	1	76	69	62	55	48
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁹⁾ Stumpage value per lineal foot.

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
⁽⁵⁾ Stumpage value per ton.
⁽⁶⁾ Stumpage value per cord.
⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁸⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁹⁾ Stumpage value per lineal foot.

TABLE 8—Proposed Stumpage Value Table
Stumpage Value Area 10
 January 1 through June 30, 2008

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$575	\$568	\$561	\$554	\$547
		2	448	441	434	427	420
		3	429	422	415	408	401
		4	313	306	299	292	285
Lodgepole Pine	LP	1	238	231	224	217	210
Ponderosa Pine	PP	1	285	278	271	264	257
		2	198	191	184	177	170
Western Redcedar ⁽³⁾	RC	1	722	715	708	701	694
Western Hemlock ⁽⁴⁾	WH	1	324	317	310	303	296
		2	324	317	310	303	296
		3	324	317	310	303	296
		4	324	317	310	303	296
Red Alder	RA	1	705	698	691	684	677
		2	633	626	619	612	605
Black Cottonwood	BC	1	43	36	29	22	15
Other Hardwood	OH	1	167	160	153	146	139
Douglas-Fir Poles & Piles	DFL	1	760	753	746	739	732
Western Redcedar Poles	RCL	1	1370	1363	1356	1349	1342
Chipwood ⁽⁵⁾	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	279	272	265	258	251
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.

⁽⁵⁾ Stumpage value per ton.

⁽⁶⁾ Stumpage value per cord.

⁽⁷⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁸⁾ Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage

value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((July)) January 1 through ((December 31, 2007)) June 30, 2008:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 ((July)) January 1 through ((December 31, 2007)) June 30, 2008

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	- \$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- \$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	- \$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 ((July)) January 1 through ((December 31, 2007)) June 30, 2008

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	- \$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	- \$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.