

**WSR 09-18-023**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed August 24, 2009, 9:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-11-115.

Title of Rule and Other Identifying Information: WAC 308-56A-160 Model year, how determined.

Hearing Location(s): Department of Licensing, Conference Room 108, 1125 Washington Street S.E., Olympia, WA 98507, on October 6, 2009, at 10:00 a.m.

Date of Intended Adoption: November 3, 2009.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, Mailstop 48205, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail [dbrown@dol.wa.gov](mailto:dbrown@dol.wa.gov), fax (360) 902-7821 or 902-7822, by October 5, 2009.

Assistance for Persons with Disabilities: Contact Dale R. Brown by October 5, 2009, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule making is required to comply with RCW 46.12.440 and 46.16.680 and SB 5719.

Reasons Supporting Proposal: Relating to the title and registration requirements for kit vehicles.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: RCW 46.12.440 and 46.16.680.

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

Name of Proponent: None.

Name of Agency Personnel Responsible for Drafting: Dale Brown, 1125 Washington Street S.E., Olympia, WA, (360) 902-4020; Implementation and Enforcement: Sheila Hadden, 1125 Washington Street S.E., Olympia, WA, (360) 902-3718.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

August 24, 2009

Walt Fahrer  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-12-006, filed 5/22/03, effective 6/22/03)

**WAC 308-56A-160 Model year—How determined.**

(1) **How is a model year assigned to a vehicle?** The model year for a vehicle is the model year assigned by the manufacturer ~~((or in the case of homemade vehicles, it is the year the vehicle was built)).~~ If an original manufacturer has not assigned a model year, or your vehicle is rebuilt, homemade, a street rod, or assembled vehicle, the following criteria will be used to establish the model year:

(a) When possible, the model year will be determined from the vehicle identification number (VIN). When the VIN does not identify the production date, corresponding production records of the original manufacturer must be used.

(b) The model year for a homemade vehicle will be the year of inspection for the purpose of making an application for certificate of ownership.

(c) The model year for assembled vehicles will be determined at the time of inspection based on the date of manufacture of the vehicle that the newly assembled vehicle most closely resembles.

(2) **Are there standards for assigning model years that manufacturers must follow?** Manufacturers must adopt standards for assigning model years based on ~~((either))~~ the date of manufacture ~~((or features of the vehicle))~~ as outlined in 46 CFR. ~~((The standards must be such that all vehicles assigned a model year that are manufactured in the same year with the same features are assigned the same model year.))~~ Manufacturers must designate the model year on the manufacturer's certificate of origin (MCO), manufacturer's statement of origin (MSO) or similar documents.

(3) **How are model years assigned to vehicles that are incomplete~~((, such as certain recreational vehicles))~~?** Manufacturers of chassis or incomplete vehicles sold to ~~((motor home or recreational vehicle))~~ manufacturers who issue separate MCOs/MSOs need not assign model year to ~~((these vehicles))~~ the chassis or incomplete vehicle. The final stage manufacturer of these vehicles must assign the model year as provided in subsection (2) of this section. In the event a model year is assigned by both the incomplete vehicle manufacturer and the completing manufacturer, the completing manufacturer assigned model year will be used on the certificates of ownership and registration.

(4) ~~((How will a model year be assigned to my vehicle if the manufacturer did not assign one? If an original manufacturer has not assigned a model year, or your vehicle is rebuilt, homemade, a street rod, assembled or a kit vehicle, the Washington state patrol or other person authorized by the director to make vehicle inspections will use the following criteria to establish the model year:~~

~~(a) The model year for a homemade vehicle will be the year of inspection for the purpose of making an application for certificate of ownership.~~

~~(b) When possible, the model year will be determined from the vehicle identification number (VIN). When the VIN does not identify the production date, corresponding production records of the original manufacturer must be used.~~

~~(c) The model year for assembled vehicles will be determined by the Washington state patrol based on the date of manufacture of the vehicle that the vehicle most closely resembles.~~

~~(d) The model year of a kit vehicle as defined in RCW 46.04.251 will not be the model year of the vehicle the kit replicates.~~

~~(5))~~ For purposes of this section the following terms will have the meanings indicated:

(a) "Manufacture" means to produce or assemble vehicles or vehicle equipment in the customs territory of the United States or to import.

~~(b)~~ "Manufacturer" means ~~((any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactured vehicles. Manufacture includes the assembling, altering, or converting of a vehicle to the extent the vehicle qualifies for a change in the series and body type appearing on its title, MCO/MSO or similar documents.~~

~~((b)))~~;

(i) A person engaged in the business of manufacturing vehicle or vehicle equipment, including predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary of Transportation in 49 CFR; and

(ii) If more than one person is the manufacturer of a vehicle, the person specified under regulations prescribed by the Secretary of Transportation in 49 CFR.

(c) "Incomplete vehicle" means an assemblage consisting of, as a minimum:

- (i) Frame and chassis structure;
- (ii) Power train;
- (iii) Steering system;
- (iv) Suspension system; and
- (v) Braking system.

To the extent that those systems are to be part of the completed vehicle that requires further manufacturing operation; other than the additions of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

~~((e)))~~ (d) "Model" means a name that a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

~~((e)))~~ (e) "Assembled and homemade vehicles" have the meaning provided in WAC 308-56A-455.

**WSR 09-18-027**  
**PROPOSED RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
 [Filed August 25, 2009, 11:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-12-044.

Title of Rule and Other Identifying Information: Chapter 139-07 WAC, Conditions of employment, WAC 139-07-010 Psychological examination, 139-07-020 Psychological examination requirements, 139-07-030 Report of psychological examination—Requirements, and 139-07-040 Report of psychological examination—Use by more than one agency.

Hearing Location(s): Washington State Criminal Justice Training Commission, 19010 1st Avenue South, Room E-154, Burien, WA 98148, on Wednesday, December 9, 2009, at 10 a.m.

Date of Intended Adoption: December 9, 2009.

Submit Written Comments to: Sonja Hirsch, Rules Coordinator, 19010 1st Avenue South, Burien, WA 98148, e-mail shirsch@cjtc.state.wa.us, fax (206) 835-7928, by December 2, 2009.

Assistance for Persons with Disabilities: Contact Sonja Hirsch, rules coordinator, by December 7, 2009, TTY (206) 835-7300 or (206) 835-7372.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Those who will be affected are persons seeking employment as a fully commissioned peace officer or a fully commissioned reserve law enforcement officer as required under RCW 43.101.080(19); peace officers and reserve law enforcement officers hired after July 24, 2005; and peace officers whose certification has lapsed as a result of a break in service in excess of twenty-four consecutive months as a fully commissioned peace officer under RCW 43.101.125 as required by RCW 43.101.105(2).

Reasons Supporting Proposal: This rule is the result of legislation passed in the form of HB 1324 and SB 5157 requiring the criminal justice training commission to set the standard for conducting preemployment psychological examinations for peace officers and reserve law enforcement officers. Setting this standard in WAC will provide a minimum standard for psychological examinations. This standard does not currently exist [exist] in this state.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Staff in cooperation with the Washington State Psychological Association, governmental.

Name of Agency Personnel Responsible for Drafting: Doug Blair, Burien, Washington, (206) 835-7332; Implementation and Enforcement: Michael D. Parsons, Burien, Washington, (206) 835-7347.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025.

A cost-benefit analysis is not required under RCW 34.05.328.

August 25, 2009  
 Sonja Hirsch  
 Rules Coordinator

**Chapter 139-07 WAC**

**CONDITIONS OF EMPLOYMENT**

NEW SECTION

**WAC 139-07-010 Psychological examination.** (1) As a condition of employment for any applicant who has been offered a conditional offer of employment as a fully commissioned peace officer or a reserve officer, including any person whose certification has lapsed as a result of a break of more than twenty-four consecutive months in the officer's service as a fully commissioned peace officer or reserve officer, the applicant shall successfully pass a psychological examination as administered by the county, city, or state law enforcement agency that complies with the requirements of this chapter.

(2) The psychological examination shall be administered by a "qualified professional," which means a psychiatrist licensed in the state of Washington pursuant to chapter 18.71

RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW.

(a) The qualified professionals who administer the examinations should be trained and experienced in psychological testing, test interpretation, psychological assessment techniques and the administration of psychological examinations specific to peace officer applicants of law enforcement agencies.

(b) The examination should be based upon attributes considered most important for effective performance as a peace officer as obtained from a job analysis and data provided by the law enforcement agency making the conditional offer of employment. The data may include interviews, surveys or other appropriate sources where job performance information was obtained.

(c) Psychological examination reports older than six months shall not be considered valid for the purpose of RCW 43.101.080(19) and 43.101.095(2).

(d) The examination report, including all testing materials and documentation used to complete the examination report, should be maintained in a manner consistent with applicable confidentiality, records retention and public disclosure laws and rules.

#### NEW SECTION

**WAC 139-07-020 Psychological examination requirements.** (1) Through the examination, the qualified professional shall determine the psychological suitability of the peace officer applicant by an assessment of whether he or she is free from job-relevant mental and emotional impairments including, but not limited to, psychopathology, personality disorders and inappropriate behavior patterns.

(2) The sole purpose of the psychological examination under this chapter is compliance with RCW 43.101.080(19) and 43.101.095 (2)(a) and shall not be used for any other purpose by the law enforcement agency or any party.

(3) Prior to the administration of the examination, the applicant must sign an informed consent to the conditions of the evaluation. The informed consent should clearly state the law enforcement agency is the client so that the applicant is informed that the entire examination would be shared with the agency.

(4) The examination shall include the following:

(a) A minimum of two written psychological tests:

(i) The tests should be objective, job-related psychological instruments validated for use in evaluating law enforcement officers;

(ii) One test should be validated in such a manner as to identify patterns of abnormal behavior; the other test must be validated for assessing relevant dimensions of normal behavior;

(iii) If mail-order, internet-based or computerized tests are employed, the examiner should verify and interpret individual results;

(b) A comprehensive, face-to-face, clinical interview with the applicant conducted after a complete review of the psychological test results;

(c) An interpretation of the psychological test results by the qualified professional;

(d) An opinion on psychological suitability by the qualified professional; and

(e) A written report of the examination with the test results and other documentation relied upon by the qualified professional attached.

#### NEW SECTION

**WAC 139-07-030 Report of psychological examination—Requirements.** (1) Findings of the psychological examination shall be reported in writing to the law enforcement agency requesting the examination.

(2) The written report shall include the following:

(a) The date of completion and a signature of the qualified professional who conducted the examination;

(b) Name and date of birth of applicant, position applied for, and agency which made the conditional offer of employment;

(c) A list and summary of the information relied upon for the assessment with the information attached;

(d) All the components of the examination, as defined in this chapter;

(e) Factors which could affect the reliability and validity of the assessment; and

(f) An assessment of the psychological suitability of the applicant to be a peace officer or reserve officer for the particular law enforcement agency.

#### NEW SECTION

**WAC 139-07-040 Report of psychological examination—Use by more than one agency.** (1) A peace officer applicant may be offered employment by more than one law enforcement agency that is conditional on the results of a psychological examination.

(2) The peace officer applicant may be required to pay all or a portion of the cost of the examination under RCW 43.101.080(19) and 43.101.095(2).

(3) One psychological examination may be shared with more than one law enforcement agency under the following circumstances:

(a) The agency which initiated the psychological examination and the qualified professional conducting the examination agreed to share the psychological examination report and recommendations with the other law enforcement agency;

(b) The applicant signed a release permitting the other agency to have the psychological examination report;

(c) The psychological examination was completed within six months of the request by the other law enforcement agency; and

(d) The job analyses of the initiating and other law enforcement agencies must be substantially similar.

**WSR 09-18-034**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
 (Basic Health)

[Order 09-01—Filed August 25, 2009, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-06-074.

Title of Rule and Other Identifying Information: Basic health program rules governing the process by which enrollees in the program may be disenrolled upon failure to comply with the recertification process outlined in WAC 182-25-090 (7)(a)(v).

Hearing Location(s): Health Care Authority, 676 Woodland Square Loop S.E., The Sue Crystal Center, Olympia, WA, on October 7, 2009, at 8:00 a.m.

Date of Intended Adoption: October 8, 2009.

Submit Written Comments to: Alyson Chase, 676 Woodland Square Loop S.E., P.O. Box 42683, Olympia, WA 98504-2683, e-mail [alyson.chase@hca.wa.gov](mailto:alyson.chase@hca.wa.gov), fax (360) 923-2765, by October 7, 2009.

Assistance for Persons with Disabilities: Contact Nikki Johnson by October 1, 2009, TTY (888) 923-5622 or (360) 923-2805.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The main purpose of the rule making is to clarify the process by which an enrollee in the basic health program may be disenrolled from the program upon failure to comply with the recertification process.

Statutory Authority for Adoption: RCW 70.47.050.

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

Name of Proponent: Washington state health care authority, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Preston Cody, 676 Woodland Square Loop, Lacey, WA, (360) 412-4361.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the health care authority rules unless requested by the joint administrative rules [review] committee or applied voluntarily.

August 25, 2009

Jason Siems  
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-03, filed 11/5/04, effective 1/1/05)

**WAC 182-25-090 Disenrollment from BHP.** (1) An enrollee or employer group may disenroll effective the first day of any month by giving BHP at least ten days prior notice of the intention to disenroll.

(2) BHP may disenroll any enrollee or group from BHP for good cause, which includes:

(a) Failure to meet the eligibility requirements set forth in WAC 182-25-030, 182-25-050, 182-25-060, and 182-25-070;

(b) Nonpayment of premium under the provisions of subsection (6) of this section;

(c) Changes in MHCS or program availability when the enrollee's MHCS will no longer be available to him or her and no other MHCS in the area where the enrollee lives is accepting new enrollment in the enrollee's program;

(d) Repeated failure to pay copayments, coinsurance, or other cost-sharing in full on a timely basis;

(e) Fraud, intentional misrepresentation of information or withholding information that the enrollee knew or should have known was material or necessary to accurately determine their eligibility or premium responsibility, failure to provide requested verification of eligibility or income, or knowingly providing false information;

(f) Abuse or intentional misconduct;

(g) Danger or threat to the safety or property of the MHCS or the health care authority or their staff, providers, patients or visitors; and

(h) Refusal to accept or follow procedures or treatment determined by a MHCS to be essential to the health of the enrollee, when the MHCS has advised the enrollee and demonstrated to the satisfaction of BHP that no professionally acceptable alternative form of treatment is available from the MHCS.

(3) In addition to being disenrolled, any enrollee who knowingly provides false information to BHP or to a participating managed health care system may be held financially responsible for any covered services fraudulently obtained through BHP.

(4) At least ten days prior to the effective date of disenrollment under subsection (2)(a) and (c) through (h) of this section, BHP will send enrollees written notice of disenrollment.

(a) The notice of disenrollment will:

(i) State the reason for the disenrollment;

(ii) State the effective date of the disenrollment;

(iii) Describe the procedures for disenrollment; and

(iv) Inform the enrollee of his or her right to appeal the disenrollment decision as set forth in WAC 182-25-100 and 182-25-105.

(b) The notice of disenrollment will be sent to both the employer or sponsor and to all members of an employer group, home care agency group or financial sponsor group that is disenrolled under these provisions. Enrollees affected by the disenrollment of a group account will be offered coverage under individual accounts. Coverage under individual accounts will not begin unless the premium for individual coverage is paid by the due date for the coverage month. A one-month break in coverage may occur for enrollees who choose to transfer to individual accounts.

(5) Enrollees covered under BHP Plus or receiving maternity benefits through medical assistance will not be disenrolled from those programs when other family members lose BHP coverage, as long as they remain eligible for those programs.

(6) Enrollees who are notified that they will be disenrolled due to incomplete recertification documents shall not

be disenrolled if they submit complete documents within thirty days after the disenrollment letter is mailed.

(7) Under the provisions of this subsection, BHP will suspend or disenroll enrollees and groups who do not pay their premiums when due, including amounts owed for subsidy overpayment, if any. Partial payment or payment by check which cannot be processed or is returned due to non-sufficient funds will be regarded as nonpayment.

(a) At least ten days before coverage will lapse, BHP will send a delinquency notice to each subscriber whose premium payment has not been received by the due date. The delinquency notice will include a final due date and a notice that BHP coverage will lapse unless payment is received by the final due date.

(b) Except as provided in (c) of this subsection, coverage will be suspended for one month if an enrollee's premium payment is not received by the final due date, as shown on the delinquency notice. BHP will send written notice of suspension to the subscriber, which will include:

(i) The effective date of the suspension;

(ii) The due date by which payment must be received to restore coverage after the one-month suspension;

(iii) Notification that the subscriber and any enrolled dependents will be disenrolled if payment is not received by the final due date; and

(iv) Instructions for filing an appeal under WAC 182-25-105.

(c) Enrollees whose premium payment has not been received by the delinquency due date, and who have been suspended twice within the previous twelve months will be disenrolled for nonpayment as of the effective date of the third suspension.

(d) Enrollees who are suspended and do not pay the premium for the next coverage month by the due date on the notice of suspension will be immediately disenrolled and issued a notice of disenrollment, which will include:

(i) The effective date of the disenrollment; and

(ii) Instructions for filing an appeal under WAC 182-25-105.

~~((7))~~ (8)(a) Unless otherwise specified in this chapter, and subject to the provisions of WAC 182-25-030, enrollees who voluntarily disenroll or are disenrolled from BHP may not reenroll for a period of twelve months from the date their coverage ended and until all other requirements for enrollment have been satisfied. An exception to this provision will be made for:

(i) Enrollees who left BHP for other health insurance, who are able to provide proof of continuous coverage from the date of disenrollment, and who apply to reenroll in BHP within thirty days of losing the other coverage;

(ii) Enrollees who left BHP because they lost eligibility and who subsequently become eligible to reenroll; and

(iii) Persons enrolling in subsidized BHP, who had enrolled and subsequently disenrolled from nonsubsidized BHP under subsection (1) or (2)(b) of this section while waiting on a reservation list for subsidized coverage.

(iv) Enrollees who were disenrolled by BHP because no MHCS was contracted to serve the program in which they were enrolled in the geographic area where they live; these enrollees may reenroll, provided all enrollment requirements

are met, if a MHCS begins accepting enrollment for their program in their area or if they become eligible and apply for another BHP program.

(v) Enrollees who were disenrolled for failing to provide requested documentation of income or eligibility ~~((who had attempted to comply with the request but were unable to meet the due date, and))~~ for recertification or as otherwise requested by BHP, who provide all required documentation within six months of disenrollment and are eligible to reenroll. Reenrollment in the plan will not be retroactive and shall take place within forty-five days of BHP receiving complete reenrollment documents that verify eligibility; subject to the provisions of WAC 182-25-080.

(b) An enrollee who is required to wait twelve months for reenrollment under (a) of this subsection may not reenroll prior to the end of the required twelve-month wait. If an enrollee satisfies the required twelve-month wait after applying for subsidized coverage and while waiting to be offered coverage, enrollment will not be completed until funding is available to enroll him or her.

#### WSR 09-18-035

#### PROPOSED RULES

#### SPOKANE REGIONAL CLEAN AIR AGENCY

[Filed August 25, 2009, 2:21 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Revocation of old Regulation I, Article VI, Section 6.04 Odors and Nuisances and addition of new section entitled Section 6.04 Emission of Air Contaminant Detrimental to Person or Property.

Summary of Proposed Revisions:

- Revoke present regulation;
- Add a reference to Regulation I, Article I, Section 1.04 for the applicable definitions;
- Add a notification that Spokane Regional Clean Air Agency (SRCAA) implements and enforces WAC 173-400-040 as well as Regulation I, Article VI, Section 6.04. The more stringent of the two regulations supersedes the lesser;
- Adopt by reference RCW 70.94.640 Odors or fugitive dust caused by agricultural activities consistent with good agricultural practices exempt from chapter;
- Incorporate the requirements from Puget Sound Clean Air Agency's (PSCAA) Section 911 (nuisance regulation); and
- Establishes odor standards that are clear to the regulated community and the public, into SRCAA's regulation:
  - Agency may take enforcement action if it documents all of the following occur:
    - Control Officer or a duly authorized representative detects an odor level greater than or equal to 2 based on the following scale;

- Level 0 - no odor detected,
- Level 1 - odor barely detected,
- Level 2 - odor is distinct and definite, any unpleasant characteristics recognizable,
- Level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance, and
- Level 4 - odor is so strong that a person does not want to remain present;

- A person making a complaint signs an affidavit stating that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property; and
- The source of the odor.

Hearing Location(s): Spokane Regional Clean Air Agency, 3104 East Augusta Avenue, Spokane, WA 99207, on November 5, 2009, at 9:00 a.m.

Date of Intended Adoption: November 5, 2009.

Submit Written Comments to: Charles E. Studer, 3104 East Augusta Avenue, Spokane, WA 99207, e-mail cestuder@scapca.org, fax (509) 477-4727, extension 107, by October 15, 2009.

Assistance for Persons with Disabilities: Contact Charles E. Studer by October 15, 2009, TTY (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Although SRCAA's legal authority to take enforcement action for odors which unreasonably interfere with another property owner's use and enjoyment is broad as provided by state law and SRCAA regulation, SRCAA has not typically taken enforcement action for violation of odor nuisance regulations because SRCAA inspectors often determine that unreasonable off-site odors exist as reported by the complainant(s) and that the source of the odor is unquestionably the identified facility; however, during the investigation, it is often extremely difficult to identify specific operations or maintenance requirements which were not complied with which resulted in the odor.

During the past four and one-half years, SRCAA has received nearly 800 odor complaints and has issued only one odor Notice of Violation (Notice of Violation).

These revisions will revoke our present odor and nuisance rule and add a new way of enforcement consistent with the practices of PSCAA's Rule 9.11, which has been challenged to the pollution control hearings board (PCHB). Each time PSCAA's rule has been upheld.

Reasons Supporting Proposal: SRCAA expects that these changes to the rule will establish clear enforceable odor standards that can be understood by both the public and the regulated community and will strengthen the enforceability of nuisance occurrences.

Statutory Authority for Adoption: RCW 70.94.141 and 70.94.380.

Statute Being Implemented: Chapter 70.94 RCW and 42 U.S.C. 7401 et seq.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SRCAA's proposed regulation clearly communicates the odor standards to the regulated community, and is relatively straightforward for inspectors to apply in appropriate cases. SRCAA's proposed regulation also provides an enforcement standard which is consistent with the standard established in the Washington Clean Air Act for nuisance odors. The benefit of enforcing a regulation that is nearly identical to PSCAA's nuisance regulation Section 9.11 is that odor violations issued by PSCAA which have been appealed to the Washington PCHB have been affirmed by the PCHB. Although the current and proposed regulation does not establish a "zero" odor standard, which people sometimes expect, one of the most significant benefits of a revised odor nuisance regulation may be that people impacted by strong and unreasonable odors are more likely [to] see some level of relief because of the more objective nature of the revised regulation.

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Charles E. Studer, 3401 East Augusta Avenue, Spokane, WA 99207, (509) 477-4727, ext. 107; Implementation: William O. Dameworth, 3401 East Augusta Avenue, Spokane, WA 99207, (509) 477-4727, ext. 1217; and Enforcement: Matt Holmquist, 3401 East Augusta Avenue, Spokane, WA 99207, (509) 477-4727, ext. 102.

No small business economic impact statement has been prepared under chapter 19.85 RCW. SRCAA is a local air pollution control authority rule. RCW 34.05.328 does not apply to local air pollution control authority rule development/amendments.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule amendment.

August 25, 2009  
Charles E. Studer  
Environmental Engineer

**AMENDATORY SECTION** (Amending Order Res. 04-01, filed 03/04/2004)

**SECTION 6.04 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY ((ODORS AND NUISANCES))**

A. **Definitions:** All definitions in SRCAA Regulation I, Article 1, Section 1.04 apply to this section, unless otherwise defined herein.

B. **The Agency implements and enforces WAC 173-400-040 in Spokane County in addition to Section 6.04. The more stringent requirement in WAC 173-400-040 or Section 6.04 supersedes the lesser. The provisions of RCW 70.94.640 are herein incorporated by reference.**

C. **It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be:**

1. **Injurious to the health or safety of human, animal, or plant life;**
2. **Injurious or cause damage to property; or**

3. Which unreasonably interferes with enjoyment of life and property.

D. With respect to odor, the Agency may take enforcement action under this section if the Control Officer or a duly authorized representative has documented all of the following:

1. The detection by the Control Officer or a duly authorized representative of an odor at a level 2 or greater, according to the following odor scale:

Level 0 - no odor detected,

Level 1 - odor barely detected,

Level 2 - odor is distinct and definite, any unpleasant characteristics recognizable,

Level 3 - odor is objectionable enough or strong enough to cause attempts at avoidance, and

Level 4 - odor is so strong that a person does not want to remain present.

2. An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property; and

3. The source of the odor.

E. Nothing in this Section shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

~~((A. Effective control apparatus and measures shall be installed and operated to reduce odor bearing gases and particulate matter emitted into the atmosphere to a reasonable minimum.~~

~~B. The Board or Control Officer may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gas, and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.~~

~~C. Odors caused by agricultural activities consistent with good agricultural practices exempt from this section:~~

~~1. Odors caused by agricultural activities consistent with good agricultural practices on agricultural land are exempt from the requirements of this section unless they have a substantial adverse effect on public health. In determining whether agricultural activity is consistent with good agricultural practices, the Authority shall consult with a recognized third-party expert in activity prior to issuing any notice of violation.~~

~~2. Any notice of violation issued under this section pertaining to odors cause by agricultural activity shall include a statement as to why the activity is inconsistent with good agricultural practices, or a statement that the odors have substantial adverse effect on public health.~~

~~3. In any appeal to the Pollution Control Hearings Board or any judicial appeal of final order pertaining to odors caused by agricultural activity, the Authority shall prove the activity is inconsistent with good agricultural practices or that the odors have a substantial adverse impact on public health.~~

~~4. If a person engaged in agricultural activity on a contiguous piece of agricultural land sells or has sold a portion of~~

~~that land for residential purposes, the exemption of this section shall not apply.~~

~~5. As used in this section:~~

~~a. "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, grain, mint, hay, and dairy products.~~

~~b. "Good agricultural practices" mean economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.~~

~~e. "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock or agricultural commodities.~~

~~6. The Authority, implements and enforces WAC 173-400-040(4), in Spokane County in addition to Parts A through C.6 of this Section. The more stringent requirement in WAC 173-400-040(4) or Section 6.03 supersedes the lesser.))~~

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 09-18-049  
PROPOSED RULES  
COUNTY ROAD  
ADMINISTRATION BOARD**

[Filed August 27, 2009, 9:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-12-035.

Title of Rule and Other Identifying Information: Chapter 136-28 WAC.

Hearing Location(s): County Road Administration Board, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, October 29, 2009, at 2:00 p.m.

Date of Intended Adoption: October 29, 2009.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, e-mail karen@crab.wa.gov, fax (360) 586-0386, by October 23, 2009.

Assistance for Persons with Disabilities: Contact Karen Pendleton by October 23, 2009, TTY (800) 833-6384 or (360) 753-5989.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending and adding new sections to current chapter 136-28 WAC, Standards of good practice—Cooperative procedures for processing of county road accident reports.

Statutory Authority for Adoption: Chapter 36.78 RCW.

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

Name of Proponent: County road administration board, governmental.

Name of Agency Personnel Responsible for Drafting: Bob Moorhead, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989; and Enforce-

ment: Jay Weber, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

August 17, 2009

Jay P. Weber

Executive Director

### Chapter 136-28 WAC

#### STANDARDS OF GOOD PRACTICE—COOPERATIVE PROCEDURES FOR PROCESSING OF COUNTY ROAD ACCIDENT REPORTS

AMENDATORY SECTION (Amending WSR 05-11-037, filed 5/11/05, effective 6/11/05)

**WAC 136-28-010 Purpose and authority.** RCW 36.78.070(1) authorizes the county road administration board to establish standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads. In order to maintain accurate information on the types and locations of collisions on county roads and implement the requirement of the National Highway Safety Act of 1966 that requires all states, in cooperation with their various local governments, to collect, compile and make reports to the National Highway Traffic Safety Administration in each state, the county road administration board has acted to coordinate the activities of the county engineers and the Washington state department of transportation. Each county engineer is to cooperate in this effort by following the procedure outlined below.

AMENDATORY SECTION (Amending WSR 05-11-037, filed 5/11/05, effective 6/11/05)

**WAC 136-28-020 County Location Coding Form (CLCF) reporting procedure.** The Washington state department of transportation (WSDOT) collects collision reports from all law enforcement agencies and receives collision reports from individual drivers. Periodically, the WSDOT ~~((will send or deliver to the county engineer's office in each county reports with attached county location coding forms (CLCF), concerning collisions occurring on county roads in that county))~~ makes CLCF reports available electronically.

The engineer will analyze ~~((the))~~ each report and complete the CLCF. For those collisions that the county engineer verifies did occur in his/her jurisdiction, ~~((only))~~ the completed CLCF will be returned electronically to the WSDOT. However, if the engineer determines that the collision did not occur on a roadway in the county's jurisdiction, he/she shall ~~((complete the bottom portion of))~~ enter that notation on the CLCF and return it ((and the collision report to)) electronically to the WSDOT.

AMENDATORY SECTION (Amending WSR 05-11-037, filed 5/11/05, effective 6/11/05)

**WAC 136-28-030 Coding detail.** (1) The county number shall be that particular number assigned to each county by the state office of financial management for county identification purposes.

(2) The county road log number shall be that particular five-digit number, including both leading and trailing zeros if applicable, assigned to each county road according to the county's latest county road log. No local names or numbers or other nomenclature shall be used in coding the road log number.

(3) The milepost shall be determined as accurately as practicable from a comparison of information on the collision report with the latest county road log.

(4) Collisions at an intersection with a state highway will be coded by the state department of transportation.

(5) To ensure uniformity, collisions at the intersection of any two county roads shall be coded to a road in the following priority order:

- (a) The road with the higher functional class;
- (b) The road that is the through route;
- (c) The road with the lower road number.

(6) Collisions on roads and/or at intersections with dual city-county or county-county responsibilities shall be coded in general accordance with the procedures outlined herein based on a mutual understanding between the several jurisdictions involved.

#### NEW SECTION

**WAC 136-28-040 Action on accident reporting compliance by the county road administration board.** By December 31, 2010, at least ninety percent of the CLCFs made available to the county engineer prior to January 1, 2010, shall be completed and transmitted to WSDOT.

Beginning January 1, 2010, the county engineer shall complete and return to WSDOT at least ninety percent of all CLCFs for the current calendar year by December 31st of that year. The county road administration board will advise each county engineer of the status of the CLCF actions as of September 30th and December 31st of each year. Failure to comply may be cause for issuance of a conditional certificate of good practice by the board as specified in WAC 136-04-060 on behalf of the county in which the violation occurred. The first condition of such a conditional certificate of good practice shall be that the county be required, at the next regular or special meeting of the county road administration board, to show cause why a certificate of good practice should not be denied to that county.

#### NEW SECTION

**WAC 136-28-050 Determination of accident reporting compliance by the county road administration board.** At its second regular meeting of each calendar year, the county road administration board shall determine if any county is unreasonably delinquent in its statutory accident reporting for the preceding calendar year. In determining



what is unreasonable, the county road administration board shall consider the following:

(1) Did the county provide prior notification of the possible accident reporting problems in writing to the county road administration board?

(2) How much greater than ten percent is the percentage of the delinquent accident reporting compared to the total county accident reporting for the same period?

(3) Are there extenuating circumstances beyond the control of the county that resulted in the delinquent accident reporting?

(4) What is the past record of the county regarding accident-reporting compliance?

**WSR 09-18-050**  
**PROPOSED RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Filed August 27, 2009, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-12-036.

Title of Rule and Other Identifying Information: Chapters 136-16 and 136-18 WAC, WAC 136-12-060, 136-165-020, 136-167-040, 136-170-040, 136-170-050, and 136-170-060.

Hearing Location(s): County Road Administration Board, 2404 Chandler Court, Suite 240, Olympia, WA 98504-0913, on October 29, 2009, at 2:00 p.m.

Date of Intended Adoption: October 29, 2009.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, e-mail Karen@crab.wa.gov, fax (360) 586-0386, by October 23, 2009.

Assistance for Persons with Disabilities: Contact Karen Pendleton, by October 23, 2009, TTY (800) 833-6384 or (360) 753-5989.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 5228 adopted by the state legislature during the 2009 legislative session will become effective July 26, 2009.

The term "day labor" is removed from the language and replaced with "county forces" as adopted by the state legislature and signed into law.

For the purpose of calculating the amount of road construction that a county may do using county forces, counties are separated into four groups based on population and provided with a formula to determine the maximum amount (note: These dollar amounts change in 2012 as stated in RCW 36.77.065):

- Counties with less than 30,000 people may have no more than \$700,000, plus \$700,000 multiplied by the previous year's motor vehicle fuel tax distribution factor in construction programs completed by county forces.
- Counties with between 30,000 and 150,000 people may have no more than \$1.15 million, plus \$1.15

million multiplied by the previous year's motor vehicle fuel tax distribution factor in construction programs completed by county forces.

Statutory Authority for Adoption: Chapter 36.78 RCW. Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: County road administration board, governmental.

Name of Agency Personnel Responsible for Drafting: Bob Moorhead, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, (360) 753-5989.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328.

August 17, 2009

Jay P. Weber

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-018, filed 8/22/02, effective 9/22/02)

**WAC 136-12-060 Failure to comply.** If notification is not received within the time frame established in WAC 136-12-045, the matter of the vacancy will be considered at the next regular meeting of the county road administration board. The county road administration board may require that all (~~day labor~~) construction by county forces projects be shut down and/or that all distribution of gas tax funds to the county cease: Provided however, That it may continue to grant reasonable extensions in the event the affected county can give adequate proof or demonstrate at the next regularly scheduled board meeting that a diligent effort has been made to secure the services of a qualified engineer.

**Chapter 136-16 WAC**

**STANDARDS OF GOOD PRACTICE—ANNUAL ROAD PROGRAM, CONSTRUCTION REPORT, AND (~~DAY LABOR~~) CONSTRUCTION BY COUNTY FORCES LIMITS**

AMENDATORY SECTION (Amending WSR 96-17-013, filed 8/12/96, effective 9/12/96)

**WAC 136-16-020 Contents of annual program.** The adopted annual program shall include, but not be limited to:

- (1) A line item for estimated preliminary engineering costs;
- (2) A line item for estimated right of way acquisition costs; and
- (3) A listing of all proposed construction projects for the year including a brief description of the work, the name, number and functional classification of the road, an estimate of the total cost of each project, including construction engineering but excluding preliminary engineering and right of

way acquisition, and a notation as to whether construction work on each project is to be done by contract or ~~((day labor))~~ construction by county forces or both.

When a project involves both contract and ~~((day labor))~~ construction by county forces work the estimate shall be divided to show the estimated cost of each type of work. The sum of all construction costs shall be approximately equal to the amount included in the road fund construction budget for construction work. All construction projects shall be shown, regardless of funding source, including all projects previously authorized and under way on which expenditures are anticipated during the program year. Projects previously authorized on which construction work is contemplated within the program year shall also be listed showing the estimated costs of work during the program year. In all cases, the total amount of proposed ~~((day labor))~~ construction by county forces costs ~~(, including construction administration and engineering,)~~ shall not exceed the ~~((day labor))~~ construction by county forces limit as computed in WAC 136-16-022.

AMENDATORY SECTION (Amending WSR 01-24-074, filed 12/3/01, effective 1/3/02)

**WAC 136-16-022 ~~((Day labor))~~ Construction by county forces limit.** The statutory ~~((day labor))~~ construction by county forces limit shall be computed in accordance with RCW 36.77.065 ~~((in the following manner for counties with populations equal to or exceeding 50,000:~~

~~(1) When the total annual county road construction budget is four million dollars or more, the day labor limit is eight hundred thousand dollars or fifteen percent of the total annual county road construction budget, whichever is greater.~~

~~(2) When the total annual county road construction budget is one million five hundred thousand dollars or more and less than four million dollars, the day labor limit is five hundred twenty five thousand dollars or twenty percent of the total annual county road construction budget, whichever is greater.~~

~~(3) When the total annual county road construction budget is five hundred thousand dollars or more and less than one million five hundred thousand dollars, the day labor limit is two hundred and fifty thousand dollars or thirty five percent of the total annual county road construction budget, whichever is greater.~~

~~(4) When the total annual county road construction budget is less than five hundred thousand dollars, the day labor limit shall be two hundred and fifty thousand dollars, unless the county legislative authority, by resolution, elects the alternate procedure set forth in RCW 36.77.065. When such alternate procedure is chosen, an individual project limit of thirty five thousand dollars shall apply, and each project shall be administered in accordance with chapter 136-18 WAC.~~

~~(5) The statutory day labor limit shall be computed in accordance with RCW 36.77.065 in the following manner for counties with populations less than 50,000:~~

~~(a) When the total annual county road construction budget is four million dollars or more, the day labor limit is eight hundred eighty thousand dollars or twenty five percent of the~~

~~total annual county road construction budget, whichever is greater.~~

~~(b) When the total annual county road construction budget is one million five hundred thousand dollars or more and less than four million dollars, the day labor limit is five hundred seventy seven thousand dollars or thirty percent of the total annual county road construction budget, whichever is greater.~~

~~(c) When the total annual county road construction budget is five hundred thousand dollars or more and less than one million five hundred thousand dollars, the day labor limit is two hundred seventy five thousand dollars or forty five percent of the total annual county road construction budget, whichever is greater.~~

~~(d) When the total annual county road construction budget is less than five hundred thousand dollars, the day labor limit shall be two hundred seventy five thousand dollars, unless the county legislative authority, by resolution, elects the alternate procedure set forth in RCW 36.77.065. When such alternate procedure is chose, an individual project limit of thirty eight thousand five hundred dollars shall apply, and each project shall be administered in accordance with chapter 136-18 WAC). The county population used in the computation shall be the official office of financial management estimate as of April 1st of the previous calendar year.~~

Determination by the county road administration board that a violation of RCW 36.77.065 has occurred shall be cause for issuance of a conditional certificate of good practice by the board as specified in WAC 136-04-060 on behalf of the county in which the violation occurred. The first condition of such a conditional certificate of good practice shall be that the county be required, at the next regular or special meeting of the county road administration board, to show cause why a certificate of good practice should not be denied to that county.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-16-050 Annual construction report.** At any time prior to April 1st of the year following the annual program year, the county engineer shall submit an annual construction report to the county road administration board in accordance with forms and instructions provided by the county road administration board. The construction report shall show actual expenditures for all construction work including construction administration and engineering done during the previous budget year. Upon receipt of each county's annual construction report, the ~~((day labor))~~ construction by county forces limit as described in ~~((WAC 136-16-022))~~ RCW 36.77.065 will again be calculated based upon the actual accomplishments as set forth in the annual construction report. A county which exceeds the ~~((day labor))~~ construction by county forces limit ~~((as computed))~~ as part of the annual program or ~~((as computed))~~ as part of the annual construction report shall be in violation of this standard of good practice.

## Chapter 136-18 WAC

**STANDARDS OF GOOD PRACTICE—(~~DAY LABOR~~) CONSTRUCTION BY COUNTY FORCES**

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-010 Purpose and authority.** Chapter 36.77 RCW provides for the construction and improvement of county roads by contract, by ~~((day labor))~~ construction by county forces or by a combination of ~~((day labor))~~ construction by county forces and contract. The purpose of this standard of good practice is to assure that all ~~((day labor))~~ construction by county forces construction work is accomplished within statutory limitations.

AMENDATORY SECTION (Amending WSR 01-24-074, filed 12/3/01, effective 1/3/02)

**WAC 136-18-020 Definitions.** For purposes of implementing statutory requirements relative to ~~((day labor))~~ construction ((work)) by county forces, the following definitions shall apply:

(1) Construction - the building of a new road facility or improvement of an existing facility to a higher geometric or structural standard.

(2) ~~((Day labor))~~ Construction by county forces - construction work performed by personnel carried on the county payroll using county owned, leased or rented equipment.

(3) Authorization date - the date that construction is authorized.

(4) Start of construction - the date that construction work commences.

(5) End of construction - the date that construction work is completed.

(6) Completion date - the date on which a county road project is closed in the accounting records.

(7) Estimated construction costs - the county engineer's estimate of the cost of contemplated construction work, not including preliminary engineering and right of way acquisition costs.

(8) Estimated project costs - the county engineer's estimate of the cost of engineering, right of way acquisition, and construction.

(9) True and complete construction costs - the accounting record of all construction costs attributed to a county road project from the authorization date to the completion date.

(10) True and complete project costs - the accounting record of all engineering, right of way acquisition, and construction costs attributed to a county road project from the authorization date to the completion date.

(11) ~~((Day labor))~~ Construction by county forces road project - ~~((day labor))~~ construction by county forces authorized by action of the county legislative authority in those counties where a cumulative dollar limit applies to all ~~((day labor))~~ construction by county forces.

~~((12) Special day labor county road project - day labor construction which will result in a facility with independent utility, authorized by action of the county legislative authority in those counties:~~

(a) With populations equal to or exceeding 50,000 and where the total construction budget is less than five hundred thousand dollars and the legislative authority has by resolution elected to perform day labor construction in an amount not to exceed thirty five thousand dollars including labor, equipment and materials on any one project.

(b) With populations less than 50,000 and where the total construction budget is less than five hundred thousand dollars and the legislative authority has by resolution elected to perform day labor construction in an amount not to exceed thirty eight thousand five hundred dollars including labor, equipment and materials on any one project.)

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-030 Authorization of ~~((day labor))~~ construction by county forces projects.** Every proposed ~~((day labor))~~ construction by county forces road project ~~((and special day labor county road project))~~ shall be a part of the county's annual construction program as defined in RCW 36.81.130 and WAC 136-16-020. Additions to the program, and/or substitutions in the program, may be made by unanimous action of the county legislative authority at any time as provided in RCW 36.81.130. No construction work shall be done on any project until it has been authorized by resolution of said authority. The resolution shall include:

(1) A brief description of the project;

(2) A vicinity map showing the location of the project and its limits, provided that in lieu of individual vicinity maps, a single vicinity map showing the location of all projects may be included with the resolution adopting the annual program;

(3) Identification of the project in terms of the officially adopted annual program;

(4) The county engineer's estimate of construction costs prepared pursuant to the completion of such preliminary engineering; and

(5) Construction plans as shall be necessary and sufficient.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-035 Special ~~((day labor))~~ construction by county forces limit for electrical and traffic control projects.** Projects that consist of electrical and traffic control work are subject to the specific ~~((day labor))~~ construction by county forces limits as set forth in RCW 36.77.065.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-060 ~~((Day labor))~~ Construction by county forces project records.** All ~~((day labor and special day labor))~~ construction by county forces project cost records shall be kept in the manner prescribed by the BARS manual. Records of quantities shall be kept in a manner consistent with original project estimates. The project records shall contain, but shall not be limited to, the following:

(1) Dated authorizing resolution;

- (2) Vicinity map showing project location and limits;
- (3) County engineer's estimate;
- (4) Affidavit of preconstruction publication required by RCW 36.77.070;
- (5) Documentation of start and end of construction dates;
- (6) Affidavit of post-construction publication showing true and complete project cost as required by RCW 36.77.-070.

AMENDATORY SECTION (Amending Order 59, filed 5/17/85)

**WAC 136-18-064 Preconstruction publication requirements.** The preconstruction publication required by RCW 36.77.070 may be made at any time subsequent to the adoption of the annual road construction program by the county legislative authority, but no later than the commencement of ~~((day-labor))~~ construction by county forces on the project or projects. The publication shall include a brief description of each project and the county engineer's estimate of each project cost showing right of way acquisition, preliminary engineering, contract work (if any) and work by ~~((day-labor))~~ construction by county forces.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-070 Special ~~((day-labor))~~ reporting construction by county forces project (~~(reporting))~~ to the county road administration board.** Each county engineer shall submit to the county road administration board a copy of each resolution authorizing a special ~~((day-labor))~~ reporting construction by county forces road project whose estimated construction cost exceeds seventy-five percent of the ~~((day-labor))~~ construction by county forces limit. Upon completion of each of these projects, or no later than March 1st of the succeeding year, the county engineer shall furnish to the county road administration board a copy of the record of true and complete construction costs. On any project where true and complete construction costs have exceeded the statutory ~~((day-labor))~~ construction by county forces limit, the county engineer shall also provide to the county road administration board an explanation of the circumstances resulting in such over-expenditure.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-080 Review of ~~((day-labor))~~ construction by county forces compliance by the county road administration board.** The executive director of the county road administration board shall have authority to investigate cases of apparent violations of ~~((day-labor))~~ construction by county forces limits and ~~((, for special day-labor projects,))~~ prepare a listing of all such projects for which actual expenditures have exceeded the statutory ~~((day-labor))~~ construction by county forces limit during the previous calendar year for review by the county road administration board at its second regular meeting of each calendar year.

AMENDATORY SECTION (Amending WSR 02-18-019, filed 8/22/02, effective 9/22/02)

**WAC 136-18-085 Determination of ~~((day-labor))~~ construction by county forces compliance by the county road administration board.** At its second regular meeting of each calendar year, the county road administration board shall determine if any county has unreasonably exceeded its statutory ~~((day-labor))~~ construction by county forces limit for the preceding calendar year, as indicated in RCW 36.77.065. In determining what is unreasonable, the county road administration board shall consider the following:

(1) Did the county provide prior notification of the possible ~~((day-labor))~~ construction by county forces limit violation in writing to the county road administration board?

(2) What is the amount of the excess ~~((day-labor))~~ construction by county forces expenditure compared to the total annual county road construction expenditure for the same time period?

(3) Are there extenuating circumstances beyond the control of the county that resulted in exceeding the statutory ~~((day-labor))~~ construction by county forces limit?

(4) What is the past record of the county regarding ~~((day-labor))~~ construction by county forces compliance?

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-18-090 Action on ~~((day-labor))~~ construction by county forces compliance by the county road administration board.** Determination by the county road administration board that a violation of RCW 36.77.065 has occurred shall be cause for issuance of a conditional certificate of good practice by the board as specified in WAC 136-04-060 on behalf of the county in which the violation occurred. The first condition of such a conditional certificate of good practice shall be that the county be required, at the next regular or special meeting of the county road administration board, to show cause why a certificate of good practice should not be denied to that county.

AMENDATORY SECTION (Amending WSR 06-11-067, filed 5/12/06, effective 6/12/06)

**WAC 136-165-020 Requirements for consideration of RATA fund increases.** (1) When a county submits its final prospectus as described in WAC 136-161-050, the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation only twice in the course of a project's development: At the completion of preliminary engineering, and prior to commencing construction. A project shall be considered to have commenced construction if:

(a) The construction contract for the work has been awarded; and

(b) If done by ~~((day-labor))~~ county forces, the work has commenced, except for labor construction engineering.

All cost increases during the course of construction shall be the responsibility of the county. Requests for increases in excess of fifty percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

(a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by ~~((day-labor))~~ county forces, the county has ~~((supplied))~~ supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

(a) The availability at the needed time of matching funds and other supplementary funds;

(b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;

(c) Required permits, including pre-project scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;

(d) Required right of way or other easements, and the time and cost of acquisition;

(e) Availability of qualified contractors to perform the work;

(f) Ownership, type, amount, and time requirements of any required utility relocation;

(g) Historical and projected labor, equipment and material costs; and

(h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

(a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;

(b) Project permit requirements were substantially changed, or new permits were required;

(c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;

(d) Design or other standards applicable to the project were changed; and/or

(e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds.

AMENDATORY SECTION (Amending WSR 01-09-077, filed 4/17/01, effective 5/18/01)

**WAC 136-167-040 Lapsing of RATA allocation for approved projects.** To encourage timely development and construction of approved projects, all projects for which RATA funds have been allocated must meet certain project development milestones. Failure to meet the milestones will result in action by the county road administration board to withdraw RATA funds from the project. This provision will only apply to those projects for which RATA funds have been allocated after July 1, 1995.

(1) For the purposes of this section, a project will be subject to lapsing and withdrawal of its RATA allocation if:

(a) The project has not begun the preliminary engineering phase within four years of project approval by the county road administration board; or

(b) The project has not begun construction within six years of the date of project approval by the county road administration board.

(2) A project shall be considered in preliminary engineering if authorization to expend funds for preliminary engineering has been granted by the county legislative authority as provided for in RCW 36.75.050. A project shall be considered in construction if:

(a) The construction contract for the work has been advertised for bids as provided for in RCW 36.77.020;

(b) A contract has been awarded under the provisions of the small works roster contract award process; or

(c) If done by ~~((day-labor))~~ county forces, the work has commenced.

(3) If an approved project does not meet a required project development milestone, the county road administration board will, at its next regular meeting, withdraw RATA funds from the project.

(4) At any time up to ten days before such meeting, the county may, in writing, request an extension of the lapse date.

The county road administration board executive director may grant such an extension if the director finds that the delay in project development was for reasons that were both unanticipated and beyond the control of the county, and subject to the following:

(a) A project extension will be granted one time only and will be no more than two years in length; and

(b) The request for an extension is based on unforeseeable circumstances that the county could not have anticipated at the time the project was submitted for RATA funding; and

(c) An approved time extension will not be grounds for the county to request an increase in the RATA funding of the project; and

(d) The executive director will determine a new lapse date, and all of the requirements listed above under subsections (1) and (2) of this section will apply except that further extensions will not be granted.

(5) The CRABoard may at any time place a moratorium on lapsing of projects that are delayed due to CRAB initiated rescheduling and establish a new lapsing date to fit the CRABoard's programming needs. For those projects given a lapsing moratorium, section four shall be held in abeyance until the new lapsing date.

AMENDATORY SECTION (Amending WSR 08-16-044, filed 7/29/08, effective 8/29/08)

**WAC 136-170-040 Combining of CRAB/county contracts.** In those cases when a county desires to combine two or more adjacent RATA funded projects into a single construction contract, the county, prior to advertising for the construction should any of the projects be scheduled for completion by ~~((day labor))~~ county forces, must make a formal written request to the county road administration board to combine the projects into a single project, assuring that the original prospectus work will be accomplished as originally proposed or as previously revised by the county road administration board, regardless of the applicable maximum project RATA contribution.

Upon receipt of a letter of request to combine, and consideration and approval by the director of the county road administration board, a revised CRAB/county contract will be prepared and sent to the county for its execution and returned in the same manner as for the original contract(s). Projects shall be considered adjacent if they have a common terminus.

AMENDATORY SECTION (Amending WSR 08-16-044, filed 7/29/08, effective 8/29/08)

**WAC 136-170-050 Combining of RATA funded project with non-RATA funded project.** In those cases when a county desires to combine a RATA funded project with one or more non-RATA funded projects, the county, prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by ~~((day labor))~~ county forces, shall notify the county road administration board in writing of its plans to combine the projects into a single construction project, assuring in writing that the work items assigned to

the RATA funded section will remain distinct and separate through the bid documents and contract plans.

Upon verification that the request is submitted in a timely manner, that the combined project will meet the conditions of the CRAB/county contract and prospectus requirements, and that RATA funded items of work will be sufficiently separated from other work, the CRAB director will respond in writing, to grant the combination.

AMENDATORY SECTION (Amending WSR 08-16-044, filed 7/29/08, effective 8/29/08)

**WAC 136-170-060 Splitting or phasing of CRAB/county contracts.** (1) A county may split a single rural arterial trust account funded project into multiple adjacent phased construction projects only upon written request and approval by the county road administration board.

(2) The county must submit the request prior to advertising for the construction contract, or prior to commencing construction should any of the projects be scheduled for completion by day labor.

(3) Upon receipt of the county's written request to split a RAP project, the CRAB director will consider and may approve the split.

(4) Upon such approval, a revised CRAB/county contract will be prepared, and sent to the county for its execution and returned in the same manner as for the original contract. The final contract must be fully executed prior to advertisement for contract construction, or if done by ~~((day labor))~~ county forces, prior to commencing construction.

(5) Funding for split projects will be assigned based upon the breakdown of costs specified in the county's request letter.

(6) Failure of a county to execute an amended CRAB/county contract within forty-five days of receipt shall nullify any split requests and any other county road administration board actions associated with the split request.

(7) Construction on at least one of the split projects must commence by the lapsing date of the original project and all remaining portions must proceed to construction within two years of commencement of the first project. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all portions or phases of the projects will be required unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

(8) Split projects will be considered ineligible for any increases in RATA funding or revisions in scope.

## WSR 09-18-061

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 28, 2009, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-13-091.

Title of Rule and Other Identifying Information: The department plans to amend WAC 388-828-9040 How does DDD determine your individual and family services level? and 388-828-9060 How does DDD determine your individual and family services rating? DDD is adding language to help clarify the existing rule language.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on October 6, 2009, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 7, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 7, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 22, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department plans to amend these existing rules to clarify language used to describe the individual and family services (IFS) level. These changes will not affect the calculation of the IFS algorithm.

Reasons Supporting Proposal: The department wants to ensure that existing rule language is clear and easy to understand.

Statutory Authority for Adoption: RCW 71A.12.010 and 71A.12.030.

Statute Being Implemented: Title 71A RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Mark Eliason, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-2517; Implementation: Debbie Couch, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-3415; and Enforcement: Don Clintzman, 640 Woodland Square Loop S.E., Lacey, WA 98504, (360) 725-3426.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes to the rules are minor and do not change the effect of those impacted by the rules.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required for rules with only housekeeping changes that are intended to clarify existing rule language.

August 18, 2009

Don Goldsby, Manager

Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

**WAC 388-828-9040 How does DDD determine your individual and family services level?** (1) DDD determines your individual and family services level using the following table:

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
0	None	1	None	1
0	None	1	Low	1
0	None	1	Medium	1
0	None	1	High	2
0	None	2 or 3	None	1
0	None	2 or 3	Low	1
0	None	2 or 3	Medium	2
0	None	2 or 3	High	2
0	Low	1	None	1
0	Low	1	Low	1
0	Low	1	Medium	1
0	Low	1	High	2
0	Low	2 or 3	None	1
0	Low	2 or 3	Low	1
0	Low	2 or 3	Medium	2
0	Low	2 or 3	High	2
0	Medium	1	None	1
0	Medium	1	Low	1

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
0	Medium	1	Medium	1
0	Medium	1	High	2
0	Medium	2 or 3	None	1
0	Medium	2 or 3	Low	1
0	Medium	2 or 3	Medium	2
0	Medium	2 or 3	High	2
0	High	1	None	1
0	High	1	Low	1
0	High	1	Medium	2
0	High	1	High	2
0	High	2 or 3	None	2
0	High	2 or 3	Low	2
0	High	2 or 3	Medium	2
0	High	2 or 3	High	3
0	Immediate	1	None	1
0	Immediate	1	Low	1
0	Immediate	1	Medium	2
0	Immediate	1	High	2
0	Immediate	2 or 3	None	2
0	Immediate	2 or 3	Low	2
0	Immediate	2 or 3	Medium	2
0	Immediate	2 or 3	High	3
1	None	1	None	1
1	None	1	Low	1
1	None	1	Medium	1
1	None	1	High	2
1	None	2 or 3	None	1
1	None	2 or 3	Low	1
1	None	2 or 3	Medium	2
1	None	2 or 3	High	3
1	Low	1	None	1
1	Low	1	Low	1
1	Low	1	Medium	1
1	Low	1	High	2
1	Low	2 or 3	None	1
1	Low	2 or 3	Low	1
1	Low	2 or 3	Medium	2
1	Low	2 or 3	High	3
1	Medium	1	None	1
1	Medium	1	Low	1
1	Medium	1	Medium	2
1	Medium	1	High	3
1	Medium	2 or 3	None	1
1	Medium	2 or 3	Low	2
1	Medium	2 or 3	Medium	2



If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
1	Medium	2 or 3	High	3
1	High	1	None	2
1	High	1	Low	2
1	High	1	Medium	2
1	High	1	High	3
1	High	2 or 3	None	2
1	High	2 or 3	Low	2
1	High	2 or 3	Medium	3
1	High	2 or 3	High	4
1	Immediate	1	None	2
1	Immediate	1	Low	2
1	Immediate	1	Medium	2
1	Immediate	1	High	3
1	Immediate	2 or 3	None	2
1	Immediate	2 or 3	Low	2
1	Immediate	2 or 3	Medium	3
1	Immediate	2 or 3	High	4
2 or 3	None	1	None	1
2 or 3	None	1	Low	1
2 or 3	None	1	Medium	2
2 or 3	None	1	High	3
2 or 3	None	2 or 3	None	2
2 or 3	None	2 or 3	Low	2
2 or 3	None	2 or 3	Medium	2
2 or 3	None	2 or 3	High	4
2 or 3	Low	1	None	1
2 or 3	Low	1	Low	1
2 or 3	Low	1	Medium	2
2 or 3	Low	1	High	3
2 or 3	Low	2 or 3	None	2
2 or 3	Low	2 or 3	Low	2
2 or 3	Low	2 or 3	Medium	2
2 or 3	Low	2 or 3	High	4
2 or 3	Medium	1	None	2
2 or 3	Medium	1	Low	2
2 or 3	Medium	1	Medium	2
2 or 3	Medium	1	High	3
2 or 3	Medium	2 or 3	None	2
2 or 3	Medium	2 or 3	Low	2
2 or 3	Medium	2 or 3	Medium	3
2 or 3	Medium	2 or 3	High	4
2 or 3	High	1	None	2
2 or 3	High	1	Low	2
2 or 3	High	1	Medium	2
2 or 3	High	1	High	3

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
2 or 3	High	2 or 3	None	2
2 or 3	High	2 or 3	Low	2
2 or 3	High	2 or 3	Medium	3
2 or 3	High	2 or 3	High	4
2 or 3	Immediate	1	None	2
2 or 3	Immediate	1	Low	2
2 or 3	Immediate	1	Medium	2
2 or 3	Immediate	1	High	3
2 or 3	Immediate	2 or 3	None	2
2 or 3	Immediate	2 or 3	Low	2
2 or 3	Immediate	2 or 3	Medium	3
2 or 3	Immediate	2 or 3	High	4
4	None	1	None	2
4	None	1	Low	2
4	None	1	Medium	2
4	None	1	High	3
4	None	2 or 3	None	2
4	None	2 or 3	Low	2
4	None	2 or 3	Medium	3
4	None	2 or 3	High	4
4	Low	1	None	2
4	Low	1	Low	2
4	Low	1	Medium	2
4	Low	1	High	3
4	Low	2 or 3	None	2
4	Low	2 or 3	Low	2
4	Low	2 or 3	Medium	3
4	Low	2 or 3	High	4
4	Medium	1	None	2
4	Medium	1	Low	2
4	Medium	1	Medium	3
4	Medium	1	High	3
4	Medium	2 or 3	None	2
4	Medium	2 or 3	Low	3
4	Medium	2 or 3	Medium	3
4	Medium	2 or 3	High	4
4	High	1	None	2
4	High	1	Low	2
4	High	1	Medium	3
4	High	1	High	3
4	High	2 or 3	None	2
4	High	2 or 3	Low	3
4	High	2 or 3	Medium	4
4	High	2 or 3	High	4
4	Immediate	1	None	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
4	Immediate	1	Low	2
4	Immediate	1	Medium	3
4	Immediate	1	High	3
4	Immediate	2 or 3	None	2
4	Immediate	2 or 3	Low	3
4	Immediate	2 or 3	Medium	4
4	Immediate	2 or 3	High	4
5	None	1	None	2
5	None	1	Low	2
5	None	1	Medium	3
5	None	1	High	4
5	None	2 or 3	None	3
5	None	2 or 3	Low	3
5	None	2 or 3	Medium	4
5	None	2 or 3	High	5
5	Low	1	None	2
5	Low	1	Low	2
5	Low	1	Medium	3
5	Low	1	High	4
5	Low	2 or 3	None	3
5	Low	2 or 3	Low	3
5	Low	2 or 3	Medium	4
5	Low	2 or 3	High	5
5	Medium	1	None	2
5	Medium	1	Low	2
5	Medium	1	Medium	3
5	Medium	1	High	4
5	Medium	2 or 3	None	3
5	Medium	2 or 3	Low	3
5	Medium	2 or 3	Medium	4
5	Medium	2 or 3	High	5
5	High	1	None	2
5	High	1	Low	2
5	High	1	Medium	3
5	High	1	High	4
5	High	2 or 3	None	3
5	High	2 or 3	Low	3
5	High	2 or 3	Medium	4
5	High	2 or 3	High	5
5	Immediate	1	None	2
5	Immediate	1	Low	2
5	Immediate	1	Medium	3
5	Immediate	1	High	4
5	Immediate	2 or 3	None	3
5	Immediate	2 or 3	Low	3

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
5	Immediate	2 or 3	Medium	4
5	Immediate	2 or 3	High	5
6	None	1	None	2
6	None	1	Low	3
6	None	1	Medium	3
6	None	1	High	4
6	None	2 or 3	None	3
6	None	2 or 3	Low	3
6	None	2 or 3	Medium	4
6	None	2 or 3	High	5
6	Low	1	None	2
6	Low	1	Low	3
6	Low	1	Medium	3
6	Low	1	High	4
6	Low	2 or 3	None	3
6	Low	2 or 3	Low	3
6	Low	2 or 3	Medium	4
6	Low	2 or 3	High	5
6	Medium	1	None	3
6	Medium	1	Low	3
6	Medium	1	Medium	3
6	Medium	1	High	4
6	Medium	2 or 3	None	3
6	Medium	2 or 3	Low	4
6	Medium	2 or 3	Medium	4
6	Medium	2 or 3	High	5
6	High	1	None	3
6	High	1	Low	3
6	High	1	Medium	4
6	High	1	High	4
6	High	2 or 3	None	4
6	High	2 or 3	Low	4
6	High	2 or 3	Medium	5
6	High	2 or 3	High	5
6	Immediate	1	None	3
6	Immediate	1	Low	3
6	Immediate	1	Medium	4
6	Immediate	1	High	4
6	Immediate	2 or 3	None	4
6	Immediate	2 or 3	Low	4
6	Immediate	2 or 3	Medium	5
6	Immediate	2 or 3	High	5

(2) DDD adds one level to your individual and family services level when your individual and family services level is determined to be:

(a) Level one, two, three, or four; and

(b) You have a score of four for question two "Other caregiving for persons who are disabled, seriously ill, or under five" in the DDD caregiver status acuity scale. See WAC 388-828-5260.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

**WAC 388-828-9060 How does DDD determine your individual and family services rating?** (1) Your individual and family services rating is determined by using the following table:

If your <u>unadjusted</u> individual and family services level is:	Then your individual and family services support rating is:
1	0
2	240
3	336
4	432
5	528

**WSR 09-18-082**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed August 31, 2009, 1:57 p.m.]

The department of licensing hereby withdraws proposed rule chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., filed on August 24, 2009, WSR 09-18-023.

Dale R. Brown  
 Rules Coordinator  
 Vehicle Services

**WSR 09-18-093**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Health and Recovery Services Administration)  
 [Filed September 1, 2009, 12:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-06-080.

Title of Rule and Other Identifying Information: The department is amending chapter 388-554 WAC, Enteral nutrition program.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, Washington 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadef Lane. A map or directions are available at <http://www.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on October 27, 2009, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 28, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 27, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by October 6, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **Major Change:** The department is no longer covering orally administered enteral nutrition for clients twenty-one years of age and older.

**Other Changes/Updates to the Enteral Nutrition Chapter Include:**

- Reorganized the chapter to mirror other recently reorganized medical program chapters.
- Changed references from "MAA" to the "department."
- Clarified when the department will pay for enteral nutrition products.
- Updated the definition for "Women, infants, and children (WIC) program" to match the department of health's current definition.
- Added children's healthcare programs as defined in WAC 388-505-0210 to the list of eligible clients.
- Clarified that "emergency medical only programs" are eligible only when the services are necessary to treat the client's emergency medical condition.
- Removed language that the department would pay separately for oral enteral nutrition for a client who resides in a nursing facility when the client's need for enteral nutrition meets 100% of the client's nutritional needs. Adult family homes, assisted living facilities, boarding homes, or any other residence where the provision of food is part of the per diem rate are required to provide food for their clients.
- Added the "client's caregiver" as a sufficient person for providers to confirm with whether the client's next month's delivery of authorized orally administered enteral nutrition products is necessary. Current language states that the provider must confirm with the client.
- Clarified that when a client has indicated that he or she is not using the enteral nutrition product as prescribed, in addition to notifying the client's physician, the provider must also document the notification in the client's file.
- Clarified what the department means by a "valid" prescription.
- Clarified that providers must request prior authorization for covered orally administered enteral nutrition products and tube-delivered enteral equipment and related supplies as required in the chapter or when the clinical criteria is not met. Requests for prior authorization must be submitted to the department on DSHS 13-743 form (Oral Enteral Nutrition Worksheet Prior Authorization Request).
- Codified expedited prior authorization (EPA) criteria for oral enteral nutrition for clients twenty years of age and younger.
- Created a new noncovered section (WAC 388-554-800) to include orally administered enteral nutrition for clients twenty-one years of age and older and nonmedical equipment, supplies, and related services, including but not limited to, backpacks, pouches, bags, baskets, or

other carrying containers. The department does not pay for these items but needed to codify this.

Reasons Supporting Proposal: This amendment is necessary for the department to fully meet the legislatively mandated appropriation reduction in section 1109, chapter 564, Laws of 2009 (ESHB 1244) for durable medical equipment (DME) for fiscal years 2010-2011 and to further clarify the department's coverage policy for enteral nutrition.

Statutory Authority for Adoption: Section 1109, chapter 564, Laws of 2009 (ESHB 1244), RCW 74.04.050, 74.08.-090.

Statute Being Implemented: Section 1109, chapter 564, Laws of 2009 (ESHB 1244).

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

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

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1306; Implementation and Enforcement: Maureen Guzman, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-2033.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department analyzed the proposed rule amendments and concludes that they will impose no new costs on small businesses. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Maureen Guzman, Enteral Program Manager, DSHS/HRSA/Division of Healthcare Services, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-2330, fax (360) 586-9727, e-mail guzmam@dshs.wa.gov.

August 27, 2009  
Stephanie E. Vaughn  
Rules Coordinator

**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 09-19 issue of the Register.

**WSR 09-18-094**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed September 1, 2009, 12:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-02-058.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-454-0015 to clarify the policy regarding situations that do not meet the criteria of a temporary absence as described in subsection (4).

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff

Lane. A map or directions are available at <http://www.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on October 6, 2009, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 7, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 6, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 22, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The decision to propose amending the WAC is in response to a question about temporary absences and parents who are incarcerated. As a result of the change, eligibility staff will have better guidance about how to handle short-term incarcerations and workload will be reduced with staff not having to terminate and reopen cases over short time periods.

Reasons Supporting Proposal: Periods of short-term incarceration, such as when a client is generally in compliance with a drug court proceeding but has been sent to jail for a few days for failure to comply with all requirements, are not a sound basis for terminating assistance.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.005, 74.04.-050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Berry, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes do not have an economic impact on small businesses. The proposed amendments only clarify eligibility regarding temporary absences from the home.

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

August 28, 2009  
Stephanie E. Vaughn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-14-105, filed 6/30/08, effective 8/1/08)

**WAC 388-454-0015 Temporary absence from the home.** The temporary absence policy described in this WAC applies to the temporary assistance for needy families (TANF) and state family assistance (SFA) programs. In some

situations, a child receiving TANF/SFA can continue to be eligible for TANF/SFA cash assistance when there is a temporary separation of the child and the child's caregiver. There must be a clear expectation the absence is temporary and the child is expected to be reunited with the family. Temporary absences can't exceed one hundred eighty days except as described in (1)(a).

(1) For recipients, temporary absences include, but are not limited to:

(a) A caregiver receiving care in a hospital, substance abuse treatment facility, or other medical institution. If the temporary care exceeds one hundred eighty days, the assistance payment for the person is reduced to the CPI amount specified under chapter 388-478 WAC.

(b) Out-of-home visits less than one hundred eighty days, when the caregiver is still responsible for the support and care of the child.

(c) A caregiver or child attending school or training as described in WAC 388-454-0020.

(d) Placement of a child in foster care or in the care of a relative or other adult, including when the child's primary caregiver is in a residential treatment facility. The division of children and family services (DCFS) must place the child and determine the child is expected to return to the primary caregiver within one hundred eighty days of the placement.

(2) For applicants, temporary absences include:

(a) When the child is placed in unlicensed foster care or in the care of a relative or other adult and DCFS expects the child will return to the home within one hundred eighty days of removal. Benefits can also be approved for an applicant if DCFS determines that the child will be in the care of the applying adult within thirty days of authorizing assistance even if the child has been out of the home for over one hundred eighty days.

(b) When the child is out of the home because of illness or hospitalization and the absence isn't expected to exceed one hundred eighty days.

(3) For situations described in (1)(d) and (2)(a) of this WAC, concurrent TANF or SFA cash assistance can be made for the child, only when DCFS places the child in the temporary care of an unlicensed-relative, other caregiver, or in foster care. DCFS must expect the child return to the home of the primary caregiver in one hundred eighty days.

(a) When the child goes into licensed foster care, the TANF/SFA grant to the parent continues.

(b) When the child goes into unlicensed care, whether with a relative or other caregiver, the TANF grant to the parent continues and the caregiver can also get a TANF grant.

(4) Situations that do not meet the criteria of a temporary absence include, but aren't limited to:

(a) The caregiver or child is expected to be incarcerated ((for any length of time)) thirty days or more.

(b) The child ran away and there is no clear expectation of when the child will be returning home.

(c) A caregiver or child is away attending school and doesn't meet the criteria outlined in WAC 388-454-0020.

(5) A caregiver must report within five days of learning that a child's absence is going to be greater than one hundred eighty days as required under WAC 388-418-0005 and 388-418-0007.

**WSR 09-18-099**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed September 1, 2009, 2:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-24-098.

Title of Rule and Other Identifying Information: Chapter 296-19A WAC, Vocational rehabilitation, industrial insurance training provider qualification rules for approval of nonaccredited and unlicensed training providers.

Hearing Location(s): Department of Labor and Industries, Tukwila Office Training Room, 12806 Gateway Drive, Tukwila, WA 98168-3311, on October 6, 2009, at 10:00 a.m.

Date of Intended Adoption: December 1, 2009.

Submit Written Comments to: Keith Klinger, P.O. Box 44329, Olympia, WA 98504-4329, e-mail [KLIN235@LNI.WA.GOV](mailto:KLIN235@LNI.WA.GOV), fax (360) 902-6362 by October 20, 2009.

Assistance for Persons with Disabilities: Contact Nancy James by September 22, 2009, TTY (360) 902-4379.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will assist in the implementation of chapter 72, Laws of 2007 (ESSB 5920), which mandates that L&I develop rules for approving nonaccredited and unlicensed training providers.

**WAC 296-19A-500 Training provider definitions.**

- "Training provider" defined.
- "Accredited" defined.
- "Licensed" defined.

**WAC 296-19A-510 What training programs can the department approve and issue a provider account number to?**

- An accredited training program or provider.
- A licensed training program or provider.
- Approved apprenticeship programs.
- A training provider on the "eligible training provider list" (ETPL).
- Nonaccredited or unlicensed programs must file a separate application for approval.

**WAC 296-19A-520 What are the requirements for providing training services to Washington injured or ill workers?**

- Legal requirements for doing business and providing training services in Washington or other states.

**WAC 296-19A-530 What financial information must a nonaccredited or unlicensed training provider submit as part of the application to provide training services to Washington injured or ill workers?**

- Financial documentation required of nonaccredited or unlicensed training providers.
- Public entity exemption from financial disclosure requirement.

**WAC 296-19A-540 What time period must a nonaccredited or unlicensed training provider offer a program of instruction prior to application to be eligible to provide training services to Washington injured or ill workers?**

- Nonaccredited or unlicensed training providers must provide proof of continuous operation for at least two years prior to application for a provider number.
- Public entity exemption from the requirement of two-year continuous operation prior to application requirement.

**WAC 296-19A-550 When must an approved nonaccredited or unlicensed training provider reapply in order to continue providing services to Washington injured or ill workers?**

- An approved nonaccredited or unlicensed training provider must reapply after two years of the most recent application [to] maintain their provider number.
- Public entity exemption from the two-year reapplication requirement.

**WAC 296-19A-560 What documentation does the department require from a nonaccredited or unlicensed training provider in order to be considered for approval to provide training to Washington injured or ill workers?**

- The list of documents that a nonaccredited or unlicensed training provider must submit in order to be considered for approval including the catalog, enrollment agreement and collateral documentation describing all aspects of the provider's operation.

**WAC 296-19A-570 What factors will the department consider when deciding whether to approve a nonaccredited or unlicensed training provider for Washington injured or ill workers?**

- Factors the department will consider when deciding whether to approve a nonaccredited or unlicensed training provider for Washington injured or ill worker[s].
- The factors include but are not limited to; all of the documents submitted with the application; supervision of staff; student safety; complaints; criminal history of staff; and performance data.

**WAC 296-19A-580 When must nonaccredited or unlicensed training providers conform to the requirements of chapter 296-19B WAC?**

- Nonaccredited or unlicensed providers without a provider number must be approved and receive a provider number as of the effective date of the rule.
- Nonaccredited or unlicensed providers with a provider number must reapply and be approved by June 30, 2010, to maintain provider status.
- Nonaccredited or unlicensed providers must obtain approval from the appropriate agency and submit proof with their application.
- Nonaccredited or unlicensed training providers that are exempt from the workforce training an [and]

education coordinating board (WTECB) licensure must submit proof of the exemption with their application.

**WAC 296-19A-590 What are the criteria training providers must meet to maintain provider status? *Start here.***

- Accredited and licensed training providers must maintain accreditation or licensure.
- Approved nonaccredited or unlicensed training providers must conform to chapter 296-19B WAC on an ongoing basis.
- Requirement to maintain accreditation, licensure or compliance with chapter 296-19B WAC.
- Employment preparation programs must maintain at least a 30% completion rate and a 50% placement rate in jobs for which training was provided.
- The department may consider and grant exceptions based on cause or circumstance.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.32.095, 51.32.099, and chapter 72, Laws of 2007 (ESSB 5920).

Statute Being Implemented: Chapter 72, Laws of 2007 (ESSB 5920) and RCW 51.32.099.

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

Name of Proponent: Labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Rich Wilson, Tumwater, (360) 902-1363; Implementation: Cheri Ward, Tumwater, (360) 902-4300; and Enforcement: Bob Malooly, Tumwater, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These legislatively mandated pilot and proposed rules do not adversely impact small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Keith Klinger, P.O. Box 44329, Olympia, WA 98504-4329, phone (360) 902-6362, fax (360) 902-6706, e-mail klin235@lni.wa.gov.

September 1, 2009

Judy Schurke

Director

**Chapter 296-19A WAC**

**NONACCREDITED AND UNLICENSED TRAINING PROVIDERS**

NEW SECTION

**WAC 296-19A-500 Training provider definitions.** (1) "Training provider" means any entity offering education in any form or manner for the purpose of instructing, training, or providing knowledge or skills.

(2) "Accredited" means the training provider has been approved by the state agency responsible for regulating degree granting institutions, or an accreditation body recognized by the secretary of the Department of Education, or the



Commission on Accrediting Rehabilitation Facilities, or a public educational institution.

(3) "Licensed" means the training provider is regulated, licensed or approved by the appropriate state agency for regulating vocational education, or under any occupational licensing act, or a federal or local government agency, or the Washington state apprenticeship council.

#### NEW SECTION

**WAC 296-19A-510 What training programs can the department approve and issue a provider account number to?** (1) An accredited training program or provider.

(2) A licensed training program or provider.

(3) An apprenticeship program approved through the Washington state Apprenticeship Training Council.

(4) A training provider listed on the Washington state Workforce Training and Education Coordinating Board's Eligible Training Provider List or a list from a similar agency in another state.

(5) Other nonaccredited or unlicensed programs approved by the department. Nonaccredited or unlicensed programs must file a separate application for approval by the department before a provider number can be issued.

#### NEW SECTION

**WAC 296-19A-520 What are the requirements for providing training services to Washington injured or ill workers?** (1) A training provider must be approved by the department and be issued a provider number before being eligible to provide training services or to receive payment for services.

(2) Training providers must comply with all federal and state laws, regulations, and other requirements with regard to their business operations.

(3) Training providers must have an admission policy that allows all qualified members of the general population to be candidates for admission.

(4) Training providers that provide services within the state of Washington must:

(a) Conform to the department's orders, rules and policies, if any;

(b) Maintain accreditation or training provider licensing, when applicable;

(c) Possess a master business license from the Washington state department of licensing;

(d) Register with the Washington state department of revenue;

(e) Possess a charter from the Washington secretary of state's office if operating a limited partnership or corporation; and

(f) Comply with local ordinances governing businesses within the city or county where they will be operating.

(5) Training providers providing services outside the state of Washington must:

(a) Comply with the department's orders, rules and policies, if any;

(b) Maintain accreditation or training provider licensing, when applicable; and

(c) Comply with all regulatory requirements and local ordinances within the state, city and county where they will operate.

#### NEW SECTION

**WAC 296-19A-530 What financial information must a nonaccredited or unlicensed training provider submit as part of the application to provide training services to Washington injured or ill workers?** The application must include the following information attested by the training provider's chief administrative officer:

(1) An identification of owners, shareholders, and directors:

(a) The complete legal name, current telephone number, and current mailing address of the owner;

(b) The form of ownership; e.g., sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, birthdates, and prior training provider affiliations, if any, of all individuals with ten percent or more ownership interest;

(d) A training provider that is a corporation or subsidiary of another corporation must submit:

(i) Current evidence that the corporation is registered with the Washington secretary of state's office; and

(ii) The name, address and telephone number of the corporation's registered agent.

(e) "Ownership" means:

(i) In the case of a training provider owned by an individual, that individual;

(ii) In the case of a training provider owned by a partnership, all full, silent and limited partners having ten percent or more ownership interest; and

(iii) In the case of a training provider owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(f) Training providers under common ownership may designate a single location as the principal facility for record-keeping via written notice to the agency.

(2) Financial statement. The training provider must submit information reflecting its financial condition at the close of its most recent fiscal year to demonstrate that it has sufficient financial resources to fulfill its commitments to students.

(3) Financial references.

(a) The training provider must furnish the names of at least one bank or other financial institution and two other entities that the agency may consult as financial references.

(b) A statement must be included authorizing the agency to obtain financial information from the references.

(c) For new training providers that have not operated another business during the past year, a recent credit report from Equifax, Experian, Trans Union or another credit rating firm recognized by the U.S. Department of Commerce.

(4) A program that is part of a publicly funded entity; e.g., city, state, county or federal, is exempt from financial disclosure requirements.

NEW SECTION

**WAC 296-19A-540 What time period must a nonaccredited or unlicensed training provider offer a program of instruction prior to application to be eligible to provide training services to Washington injured or ill workers?** A nonaccredited or unlicensed training provider that is exempt from any other applicable state licensing requirement must provide proof that they have been in continuous operation for at least two years prior to the date of application.

Exception: A program that is part of publicly funded entity; e.g., city, state, county or federal, is exempt from the two-year requirement.

NEW SECTION

**WAC 296-19A-550 When must an approved nonaccredited or unlicensed training provider reapply in order to continue providing services to Washington injured or ill workers?** An approved nonaccredited or unlicensed training provider must reapply after two years of the date of the most recent application to the department to be able to continue providing training services to Washington injured or ill workers.

NEW SECTION

**WAC 296-19A-560 What documentation does the department require from a nonaccredited or unlicensed training provider in order to be considered for approval to provide training to Washington injured or ill workers?** At the time that a nonaccredited or unlicensed training provider seeks a provider number from the department, the provider must provide the department with all of the following documentation, or else its request for a provider number will be denied:

(1) A copy of the training provider's catalog. The training provider must publish a catalog or brochure that explains its operations and requirements. The catalog must be current, comprehensive, and accurate.

(2) A copy of the training provider's enrollment agreement/contract. An enrollment agreement is any agreement that creates a binding obligation to purchase a course of instruction from a training provider.

(3) A description of the instruction program including:

(a) The number of clock hours of instruction, the method of instruction (e.g., correspondence, classroom, lab, computer assisted), and the average length of time required for successful completion;

(b) If instruction is calculated in credit hours, a description of the contact hour formula applied by the training provider; i.e., the number of contact hours applicable to each quarter or semester credit hour of lecture, laboratory/practicum, and/or internship/externship;

(c) For distance education training providers, the instructional sequences as described in the number of lessons.

(4) A document outlining the scope and sequence of courses or programs required to achieve the educational objective.

(5) A copy of the training provider's admission procedures including policies describing all prerequisites needed

by entering students to successfully complete the programs of study in which they are interested.

(6) Documentation indicating the total cost of the training for each program, including registration fee, if any, tuition, books, supplies, equipment, laboratory usage, special clothing, student activities, insurance and all other charges and expenses necessary for the completion of the program.

(7) A copy of the training provider's cancellation and refund policy including:

(a) Cancellation that occurs before the training start date;

(b) Cancellation that occurs within thirty days of the start date; and

(c) Interruptions in service due to staffing or other reasons.

(8) The training calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate.

(9) An accurate description of the training provider's facilities and equipment available for student use, the maximum or usual class size and the average student/teacher ratio.

(10) The names and qualifications of faculty.

(11) A copy of the training provider's policy regarding standards of progress required of the student including:

(a) A definition of the grading system;

(b) The minimum grades considered satisfactory;

(c) Conditions for interruption for unsatisfactory progress;

(d) A description of the probationary period, if any, allowed by the training provider;

(e) Conditions for reentrance for those students dismissed for unsatisfactory progress; and

(f) Information that a statement will be furnished to the student regarding satisfactory or unsatisfactory progress.

(12) The training provider's policy towards student conduct, including causes for dismissal and conditions for readmission.

(13) The training provider's policy regarding leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance.

(14) For training providers that prepare students for obtaining employment, documentation of the training provider's completion rate and job placement rate, including the title, wages, and benefits obtained by graduates.

NEW SECTION

**WAC 296-19A-570 What factors will the department consider when deciding whether to approve a nonaccredited or unlicensed training provider for Washington injured or ill workers?** The department will consider all of the information contained in all of the documents that were provided by the training provider in its application to receive a provider number from the department, including the documents that were provided pursuant to WAC 296-19A-560. The department will review this information to ensure that the training provider provides training that is consistent with chapter 296-19A WAC and RCW 51.32.099. Furthermore, the department will consider the following factors:

(1) Whether the training provider adequately supervises its instructors to ensure that they are both qualified and provide appropriate training and instruction.

(2) Whether any students have been injured as a result of the training provider's failure to use adequate safety protocols.

(3) Whether any complaints have been filed by current or former students of the training provider against the training provider or any of its instructors, and, if so, whether any of these complaints have merit.

(4) Whether the training provider of any of its instructors have ever been convicted of a crime, and, if so, the nature of the crime.

(5) Whether there is any other information that indicates that the training provider does not provide training to its students in a manner that is consistent with the objectives of chapter 296-19A WAC or RCW 51.32.099.

(6) For training providers that prepare students for obtaining employment, the following factors must be addressed:

(a) Whether any of the training provider's programs allow a student to obtain an educational or occupational credential awarded upon successful completion of program, and, if so, the type of credential(s) awarded;

(b) Whether any of the training provider's programs have clearly identified program objectives, such as information regarding specific job titles that the student would be qualified for upon completion of training, and the projected wages and benefits of those jobs;

(c) The training provider's job placement rate, including the title, wages, and benefits obtained by graduates; and

(d) Whether the program achieved at least a thirty percent completion rate and a fifty percent job placement rate in the three quarter period following graduation for the most recent fiscal year.

#### NEW SECTION

**WAC 296-19A-580 When must unlicensed or nonaccredited training providers conform to the requirements of chapter 296-19A WAC?** (1) Nonaccredited or unlicensed training providers without a current department provider number must be approved by the department and receive a provider number in order to train Washington injured or ill workers as of the effective date of this rule.

(2) Nonaccredited or unlicensed training providers who already have a department provider number must reapply for approval by the department and be approved before June 30, 2010, in order to maintain the ability to train Washington injured or ill workers after that date.

(3) Nonaccredited or unlicensed training providers must first obtain licensure or approval by the appropriate state agency and submit documentation of this licensure or approval when applying to the department to become a provider.

(4) Nonaccredited or unlicensed training providers that are exempt from the workforce training and education coordinating board (WTECB) licensure requirements must submit documentation of the exemption before an application can be reviewed.

#### NEW SECTION

**WAC 296-19A-590 What are the criteria training providers must meet to maintain provider status?** (1) All accredited or licensed training providers with a department provider number must maintain their accreditation or licensure status.

(2) All approved nonaccredited or unlicensed training providers with a department provider number must conform to all requirements in chapter 296-19A WAC, on an ongoing basis.

(3) Failure to maintain accreditation, licensure, or conformance to the requirements of chapter 296-19A WAC, may result in termination of the provider number.

(4) Programs that prepare students for employment must maintain at least a thirty percent completion rate and fifty percent placement rate in jobs for which training was provided during the three quarter period following graduation during the most recent fiscal year (July 1 through June 30).

The department may consider and grant exceptions based on unusual cause or circumstances.

**WSR 09-18-100**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed September 1, 2009, 2:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-117.

Title of Rule and Other Identifying Information: Chapter 296-19A WAC, Option 2 benefits.

Hearing Location(s): Department of Labor and Industries, Tukwila Office Training Room, 12806 Gateway Drive, Tukwila, WA 98168-3311, on October 6, 2009, at 1:00 p.m.

Date of Intended Adoption: December 1, 2009.

Submit Written Comments to: Nancy James, P.O. Box 44208, Olympia, WA 98504-4208, e-mail jamn235@lni.wa.gov [jamn235@lni.wa.gov], fax (360) 902-4960, by October 20, 2009.

Assistance for Persons with Disabilities: Contact Nancy James by September 22, 2009, TTY (360) 902-5787 or (360) 902-5005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are necessary for the implementation of chapter 72, Laws of 2007 (ESSB 5920).

**WAC 296-19A-600 How does an eligible injured worker elect vocational Option 2 benefits?**

- Explains when the worker must choose Option 2 benefits if electing Option 2 benefits.
- Explains that the worker's claim will be closed when electing Option 2 benefits and the worker will receive the Option 2 award and access to Option 2 training funds.

**WAC 296-19A-610 What is a vocational Option 2 award?**

- Explains how the Option 2 award is calculated.
- Explains the method of payment of the Option 2 award to the worker.
- Clarifies adjustments and deductions that can and cannot be made.

**WAC 296-19A-620 What are the vocational Option 2 training funds?**

- Explains when training funds are available to the worker and for what period.
- Clarifies what training programs Option 2 funds can be used.
- Explains basis for annual adjustment for available training funds.
- Explains that workers are notified by department order of training funds available and how they can access their current balance.

**WAC 296-19A-630 Can a worker change their option election?**

- Explains time frame for changing election options.

**WAC 296-19A-640 What costs cannot be paid from the vocational Option 2 training funds:**

- Specifies what costs training funds cannot be used for.

**WAC 296-19A-650 Is the vocational Option 2 award paid if the worker is confined in an institution and under sentence?**

- Explains that the worker will not receive the option 2 award while incarcerated under sentence and when the department or self-insured employer will resume payment.

**WAC 296-19A-660 Can a worker use the Option 2 training funds if confined in an institution and under sentence?**

- Explains that Option 2 training funds are available while a worker is incarcerated under sentence upon application to the department of self-insurer.

**WAC 296-19A-670 If a worker dies while receiving the vocational Option 2 award, will the award be paid to the worker's beneficiaries?**

- Explains that the award is not payable to the worker's beneficiaries or estate.

Reasons Supporting Proposal: This proposed rule making will include new rules to clarify the process and requirements for making application for Option 2 vocational benefits, and define which vocational costs require department or self-insurer approval and the vocational costs that can and cannot be paid.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.32.095, 51.32.099 and 51.32.0991 (chapter 72, Laws of 2007, ESSB 5920).

Statute Being Implemented: RCW 51.32.095, 51.32.099 and 51.32.0991 (chapter 72, Laws of 2007, ESSB 5920).

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

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

Name of Agency Personnel Responsible for Drafting: Brenda Heilman, Tumwater, (360) 902-6313, Implementation: Cheri Ward (state fund) and AnnaLisa Gellerman (self-insurance), Tumwater, (360) 902-6313; and Enforcement: Robert Malooly, Tumwater, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule making is exempt under RCW 19.85.025(3), referring to RCW 34.05.-310(4), namely RCW 34.05.310 (4)(c) because the rule making adopts and incorporates without material change ESSB 5920, chapter 72, Laws of 2007.

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt under RCW 34.05.-328 (5)(b)(iii) because it adopts and incorporates without material change ESSB 5920, chapter 72, Laws of 2007.

September 1, 2009

Judy Schurke  
Director

**OPTION 2 BENEFITS**NEW SECTION

**WAC 296-19A-600 How does an eligible injured worker elect vocational Option 2 benefits?** Within fifteen days of the approval of a retraining plan by the department, the worker submits to the department or self-insurer the Retraining Plan Option Form indicating they select Option 2 and choose not to participate in their retraining plan. This election means the worker's compensation claim will be closed, and the worker will receive the vocational Option 2 award and access to the Option 2 training funds.

NEW SECTION

**WAC 296-19A-610 What is a vocational Option 2 award?** This award is equivalent to the total of six months of temporary total disability compensation based on the amount in effect the date the Option 2 benefit is granted. The award will be paid to the worker in biweekly payments according to their schedule of temporary total disability payments until the award is paid in full. The temporary total disability amount used will not include any adjustments for the worker's receipt of Social Security benefits. Any overpayments the worker owes to the department or to a self-insurer will be deducted from the vocational award.

NEW SECTION

**WAC 296-19A-620 What are the vocational Option 2 training funds?** These training funds are available to the worker, upon application to the department or self-insurer, for a period of five years following the department's order confirming the worker's Option 2 election. The funds can be used to participate in any training through an accredited,

licensed, or department-approved training program or institution.

The amount of training funds available is adjusted effective July 1st of each year, based on the average percentage change in tuition for the next fall quarter for all Washington state community colleges. Eligible workers are notified of the amount available to them by department order issued at the time of their Option 2 election. They can also view the current balance of funds through the department's on-line claim and account center.

#### NEW SECTION

**WAC 296-19A-630 Can a worker change their option election?** Changes to the election decision cannot be made beyond fifteen days of the date the department approves the worker's retraining plan.

#### NEW SECTION

**WAC 296-19A-640 What costs cannot be paid from the vocational Option 2 training funds?** Training funds cannot be used for the costs of ergonomic equipment, prejob accommodations, job modifications, on-the-job training, self-employment, lodging or transportation.

#### NEW SECTION

**WAC 296-19A-650 Is the vocational Option 2 award paid if the worker is confined in an institution and under sentence?** No. The department or self-insured employer will pay the balance of the Option 2 award when notified, in writing, the worker is no longer confined and under sentence.

#### NEW SECTION

**WAC 296-19A-660 Can a worker use the Option 2 training funds if confined in an institution and under sentence?** Yes. These training funds are available to the worker, upon application to the department or self-insurer.

#### NEW SECTION

**WAC 296-19A-670 If a worker dies while receiving the vocational Option 2 award, will the award be paid to the workers' beneficiaries?** No. This award is not payable to the worker's beneficiaries or estate.

### WSR 09-18-103

#### PROPOSED RULES

### PUBLIC DISCLOSURE COMMISSION

[Filed September 1, 2009, 2:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-101.

Title of Rule and Other Identifying Information: WAC 390-37-040 Enforcement procedures—Procedures for filing complaints with the commission. The rule provides guidance

on the process for filing a complaint alleging violations of chapter 42.17 RCW with the commission.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on October 22, 2009, at 9:30 a.m.

Date of Intended Adoption: October 22, 2009.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by October 20, 2009.

Assistance for Persons with Disabilities: Contact Nicole Stauffer by phone (360) 753-1111 or (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amended rule would require that all complaints filed with the commission be in writing and signed by the complainant under oath. Currently, only complaints relating to elected officials or a candidate for elective office are required to be under oath. The amendments would also provide more detail on what information is to be included in complaints and supplemented if possible.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: Chapter 42.17 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The amended rule clarifies and provides guidance to persons seeking to file a complaint with the commission.

Name of Proponent: [Public disclosure commission (PDC)], governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of the rule amendment has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to the adoption of these rules pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of these rules.

September 1, 2009

Douglas J. Ellis

Assistant Director

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-040 Enforcement procedures—Procedures for filing complaints with the commission.** (1) A complaint filed with the commission (~~(relating to an elected official or a candidate for elective office,))~~ by a member of the public shall be in writing, and signed by the complainant

under oath. "Member of the public" is any person who is not a commission staff member.

(2) ~~((A complaint filed with the commission, other than a complaint specified in subsection (1) of this section, shall be made in writing.~~

~~(3))~~ A complaint filed under ~~((the provisions of either))~~ subsection (1) ~~((or (2)))~~ of this section shall include:

(a) A statement of the nature of the alleged violation or violations, date, time and place of each occurrence and name of person or persons responsible;

(b) All available documentation ~~((and)),~~ other evidence and information regarding potential witnesses which the complainant is able to supply to demonstrate a reason for believing that a violation of ~~((the sections of))~~ chapter 42.17 RCW ~~((that are enforced by the commission))~~ has occurred. The complainant shall submit such information at the time of the filing of the complaint, and shall supplement such information as soon as possible if additional information becomes known to the complainant after the complaint is filed; and

(c) The name, address, telephone number, and other contact information for the complainant.

**WSR 09-18-110**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Docket TV-090400—Filed September 2, 2009, 8:30 a.m.]

Original Notice.

Expedited rule making—Proposed notice was filed as WSR 09-10-087.

Title of Rule and Other Identifying Information: Chapter 480-14 WAC, Motor carriers, excluding household goods carriers and common carrier brokers.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on October 14, 2009, at 1:30 p.m.

Date of Intended Adoption: October 14, 2009.

Submit Written Comments to: Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-mail records@utc.wa.gov, fax (360) 586-1150, by October 5, 2009. Please, include "Docket TV-090400" in your comments.

Assistance for Persons with Disabilities: Contact Susan Holman by September 30, 2009, TTY (360) 586-8203 or (360) 664-1243.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 480-14 WAC contains rules for motor carriers of property other than household goods carriers. The rules cover intrastate common carriers and armored car service carriers, as well as interstate common carriers. The rules set out requirements for permits and registrations, liability insurance and safety.

In 1995, the state legislature transferred all safety regulation for motor carriers of property other than household

goods to the state patrol. Specifically, RCW 81.80.300 states, in part:

The Washington state patrol shall perform all motor carrier safety inspections required by this chapter, including terminal safety audits, except for (1) those carriers subject to the economic regulation of the commission, or (2) a vehicle owned or operated by a carrier affiliated with a solid waste company subject to economic regulation by the commission.

Because the state patrol has sole responsibility for safety for these carriers, many rules in chapter 480-14 WAC are no longer necessary. In addition, a number of nonsubstantive changes are made to clarify current language without changing the intent of the rules.

Reasons Supporting Proposal: Portions of the rule are no longer necessary due to changed circumstances surrounding motor carrier regulation in Washington. In addition, some revisions clarify the language of the rule without changing its effect.

Statutory Authority for Adoption: RCW 80.01.040 and 81.04.160.

Statute Being Implemented: Not applicable.

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

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

Name of Agency Personnel Responsible for Drafting: Betty Young, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1202; Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

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

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

September 2, 2009

David W. Danner

Executive Director

and Secretary

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-010 Purpose and application.** ~~((The federal government has preempted state economic regulation of motor carriers effective January 1, 1995, except for carriers of household goods and common carrier brokers. These rules are established to comply with federal law. This chapter supersedes chapter 480-12 WAC for all common and contract carriers previously regulated in that chapter except carriers of household goods and common carrier brokers, who continue to be regulated by that chapter.))~~ These rules require intrastate common carriers of property by motor vehicle to obtain and maintain intrastate common carrier operating permits, to file reports and pay regulatory fees, and to file and

maintain evidence of required insurance coverage. The rules also require interstate carriers to secure appropriate authority from the United States Department of Transportation (USDOT) and to register with the commission and pay fees as required by the Uniform Carrier Registration (UCR) program or any successor program.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-020 Rules, general application of rules(~~—How changed~~).** (1) No rule contained in this chapter can be changed, altered or revised except by general order of the commission pursuant to the Washington State Administrative Procedure Act.

(2) The rules in this chapter are for general application only, and are subject to such changes and modifications as the commission may deem advisable from time to time, and also to such exceptions as may be considered just and reasonable in individual cases.

(3) (~~(Application for exception to)~~) A person requesting an exemption from any of (the) these rules (and regulations of the commission shall be made in accordance with the following instructions:

(a) ~~Application should be directed)~~ must direct his or her request to the commission at its Olympia headquarters office. (~~The application should be typewritten on 8 1/2 x 11 inch paper, on one side of the sheet only.~~

(b)) The (~~applicant~~) person must identify the rule from which exemption is sought and give a full explanation (~~as to~~) of the reason(s) the (exception) exemption is desired.

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

**WAC 480-14-040 Definitions.** As used in this chapter, the following definitions shall apply:

(1) (~~The term "motor carrier" means "common carrier," "private carrier" and "exempt carrier," as herein defined.~~

(2)) The term "common carrier" means any person who undertakes to transport property, including general commodities, materials transported by armored car service, and/or hazardous materials, for the general public by motor vehicle for compensation, including under individual contracts or agreements, and including motor vehicle operations of other carriers by rail or water and of express or forwarding companies. (~~For the purposes of chapter 480-15 WAC, the term "common carrier" also includes persons engaged in the business of transporting household goods as common carriers or of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.~~

(3) The term "private carrier" means a person who, in its own vehicle, transports only property owned or being bought or sold by it in good faith and only when such transportation is purely an incidental adjunct to some established private business owned or operated by it in good faith.

(4)) The term does not include household goods carriers, as defined by WAC 480-15-020, solid waste collection

companies, as defined by WAC 480-70-041, or "exempt carriers."

(2) The term "exempt carrier" means any person operating a vehicle exempted from certain regulatory provisions (~~(of the act)~~) under RCW 81.80.040.

(~~(5)~~) The terms "~~registered carrier~~" and "~~registered exempt carrier~~" have the meanings set out in ~~WAC 480-14-290.~~

(~~(6)~~) (3) The term "carrier of hazardous materials" means any person who transports radioactive materials, hazardous waste, hazardous materials and hazardous substances as defined in Title 49 Code of Federal Regulations. Information about 49 CFR regarding the version currently in effect and where to obtain it is set out in WAC 480-14-999.

(~~(7)~~) (4) The term "carrier of general commodities" means any person transporting the property of others for compensation, except persons performing the service of transporting household goods as defined in WAC 480-15-020.

(~~(8)~~) (5) The term "armored car service" means carriers transporting property of very high value (gold, silver, currency, valuable securities, jewels and other property of very high value) using specially constructed armored trucks and providing policy protection to safeguard freight while it is being transported and delivered. It also means carriers which operate ordinary equipment in the carriage of high value commodities when guards are necessary to accompany the shipment.

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

**WAC 480-14-050 (~~Reference to other chapters.~~) Procedures and documents.** (1) **Procedures.** (~~Except as otherwise provided in this chapter, the commission's rules relating to procedure, chapter 480-07 WAC, shall govern the administrative practice and procedure in and before the commission in proceedings involving motor freight carriers.~~

(2) **Communications.** ~~Except as provided in chapter 480-04 WAC, all written communications and documents should be addressed to the secretary, Washington utilities and transportation commission, at the headquarters office of the commission at Olympia, Washington, and not to individual members of the commission staff.~~

(a) ~~Except as provided in chapter 480-04 WAC, all communications and documents are deemed to be officially received only when delivered at the office of the secretary.~~

(b) ~~In addressing communications to the commission each permit holder must use the name shown upon its permit and indicate permit number.~~

(e) ~~Except as provided in WAC 480-07-143, 480-07-145, and 480-14-420, receipt in the commission's telefacsimile machine does not constitute filing with the commission.~~

(~~3~~) The commission's procedural rules are contained in chapter 480-07 WAC and apply to common carriers regulated under this chapter. If a rule in this chapter conflicts with a rule in chapter 480-07 WAC, the rule in this chapter applies.

(2) **Documents(~~—When filed~~).** (~~Except as provided in chapter 480-04 WAC,)~~ All petitions, complaints, applica-

tions for common carrier permits or extensions, or any other matter required to be served upon or filed with the Washington utilities and transportation commission ~~((shall))~~ must be served or filed upon the commission at its headquarters office as shown in WAC ~~((480-04-030))~~ 480-04-035, upon the secretary of the commission. ~~((Except as provided in chapter 480-04 WAC,))~~ Any petition, complaint, application, or other matter required to be served upon or filed with the commission ~~((shall))~~ will not be considered served or filed until it is received at the headquarters office ~~((of the commission at Olympia, Washington)).~~

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-090 Permits.** ~~((1) Location of original copy.~~ Permits must be kept at the main office of the carrier.

~~((2) Copies required on power units.))~~ Permit holders must carry a copy of operating authority issued by the Washington utilities and transportation commission on each power unit operated in intrastate operations.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-100 Operations must be under permit name.** Every common carrier ~~((shall))~~ must conduct its operations under ~~((the name,))~~ its corporate, trade~~((,))~~ or assumed~~((, that is))~~ name as described in its permit~~((, and))~~. No common carrier ~~((shall))~~ may perform any carrier service, or hold itself out to perform such service, by advertisement or otherwise in any name other than ~~((that in which its permit is issued))~~ its corporate, trade or assumed name as described in its permit.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-110 Improper use of permit or registration receipt.** ~~((The use of))~~ No person or firm may use a permit or registration receipt ~~((by any person or firm other than))~~ except the carrier to whom it was issued ~~((is unlawful)).~~

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-120 Change of address**~~((, change of)).~~ A carrier must immediately report to the commission in writing any change in the address of its principal place of business.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-140 Fees.** Fees for applications ~~((shall be))~~ are as follows:

Type of Application	Fee <del>((Applicable))</del>
<del>((Conversion of permits existing prior to January 1, 1995, to new permits</del> .....	<del>(\$0))</del>
Change of name or business structure .....	\$50
Permanent common carrier operating authority	
Hazardous materials .....	\$275
General commodities .....	\$275
Armored car service .....	\$275
Extension of common carrier permit authority	
Hazardous materials .....	\$100
General commodities .....	\$100
Armored car service .....	\$100
Reinstatement of authority (within 10 months of cancellation)	
Hazardous materials .....	\$100
General commodities .....	\$100
Armored car service .....	\$100

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-150 Periodic reports and regulatory fees.** (1) ~~((Every common motor carrier operating in intrastate commerce shall, if requested by the commission, on or before the first day of May of each year, file with the commission with its periodic special report as defined in WAC 480-14-170, on a form provided by))~~ The commission~~((,))~~ may require, on an annual basis, a special report from each common carrier that operated within the state during the prior calendar year. The report must be filed on or before the first day of May, to cover the operations of the prior calendar year. The report must include a statement on oath showing ~~((its))~~ the common carrier's gross operating revenue from intrastate operations during the prior calendar year.

(2) Each common carrier ~~((shall submit with its statement of gross operating revenue the carrier's))~~ must pay a regulatory fee~~((, calculated as))~~ at the time it files a report. The regulatory fee is 0.0025 times the stated gross operating revenue, unless that rate is reduced or waived by commission order.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-160 ((Procedures for contest of)) Contested fees.** (1) A person may contest any fee imposed by ~~((the authority of chapter 81.80 RCW under RCW 81.80.115 by the procedure set out in this section))~~ these rules.

~~((Any person on whom a fee is imposed by the authority of chapter 81.80 RCW shall))~~ (a) The person must first pay the fee.

(b) Within six months of the date the fee is due, the payor may petition the commission for a refund of the fee paid~~((, in~~



writing, filed no later than six months after the fee is first due and payable).

(c) The petition ~~((shall state))~~ must be in writing and must include:

- (i) The name of the payor/petitioner(;;).
- (ii) The date and the amount paid(~~(, including)~~).
- (iii) A copy of any receipt, if available(;;).
- (iv) The nature of the fee paid(;;).
- (v) The amount of the fee that is contested(;;).
- (vi) The statute under which the fee is imposed, if known ~~((to the petitioner; and))~~.
- (vii) Any reasons why the commission may not impose the fee.

(2) The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-180 Applications for intrastate authority.** ~~((1) Intrastate authority.)~~ No person ~~((shall))~~ may conduct operations as a ~~((motor freight))~~ common carrier in Washington intrastate commerce without having first obtained a permit from the commission to do so.

~~((a) Applications))~~ (1) Common carriers must apply to the commission to acquire permanent common carrier authority, ~~((extension of))~~ to extend existing permanent common carrier authority, or to change ~~((of))~~ a carrier name or business structure ~~((shall be made))~~. Common carriers must apply on forms furnished by the commission and ~~((shall contain))~~ must include all the information, documents(;;) and exhibits called for in the form or the form's instructions. The commission may refuse to accept any application until all required information is supplied.

~~((b) No application will be accepted for filing))~~ (2) The commission will not accept an application unless it is accompanied by the required fee as shown in WAC 480-14-140.

~~((c))~~ (3) The commission's acceptance of an application for filing does not indicate the commission's approval, nor is the commission precluded from finding that the information presented in the application is insufficient.

~~((2) Interstate authority.)~~ Each carrier operating in interstate commerce on the public roads of the state of Washington shall apply to register its insurance with the commission pursuant to WAC 480-14-250. Every such application shall be granted if it contains all necessary information and documentation, if the information provided is true and correct, and if the required fee is paid.

(3) All exhibits or papers submitted with an application must be legibly written or typed on one side only of 8 1/2 by 11 inch paper.

(4) Applications for permits and for registration shall require that the applicant certify the truth of all information submitted with the application, under penalties of perjury. False, misleading, or incomplete information may subject the applicant to prosecution, to civil penalties, or to revocation or suspension of authority.)

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

**WAC 480-14-190 ((Permanent)) Common carrier permits.** (1) ~~((For the purposes of this rule, applications for authority shall include applications for original or extended common carrier authority for general commodities (excluding household goods), materials transported by armored car, and/or hazardous materials.~~

~~((2))~~ The commission will issue a common carrier permit ~~((shall be issued))~~ to any applicant ~~((satisfying the following requirements:~~

~~((a) Filing an application satisfying the requirements of WAC 480-14-180.~~

~~((b) Filing, or causing to be filed, insurance in accordance with the requirements of WAC 480-14-250.~~

~~((c) Passing a safety fitness review of the applicant's knowledge and ability to conform with the motor carrier safety and/or hazardous materials regulations. The safety fitness review may be waived if the applicant can furnish a copy of a U.S. Department of Transportation "satisfactory" safety rating issued within twenty-four months before the date of the application. The commission may require an on-site safety compliance review to satisfy the safety fitness review requirements prior to issuing any permit.~~

~~((3) An application may be dismissed for failure to complete needed steps and it may be dismissed, denied, or granted in part based upon the satisfactory compliance with this chapter.)~~ that files an application satisfying the requirements of WAC 480-14-180 and that files insurance in accordance with the requirements of WAC 480-14-250.

(2) The commission may dismiss an incomplete application. The applicant may request a review of dismissal ~~((or full or partial denial))~~ through a brief adjudicative proceeding, pursuant to WAC 480-07-610.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-200 Armored car service.** ~~((Motor))~~ Common carriers defined as providing "armored car service" under WAC 480-14-040(8), when transporting cash or coin with a value exceeding one hundred thousand dollars, are subject to the following provisions:

(1) The vehicle must be accompanied by at least two armed security guards qualified under chapter 18.170 RCW and chapter 308-18 WAC.

(2) When the vehicle is located in an unsecured area, one guard must remain within the area.

(3) Those portions of the vehicle surrounding the cargo and personnel must have a UL 752 Testing Certification to Level 1 Medium Powered Small Arms (MPSA); except that(;;) any vehicle owned by an armored car service and operated as an armored car prior to ~~((the effective date of this rule))~~ December 23, 1995, is exempt from this regulation.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-210 Change of carrier name and business structure.** (1) ~~((For the purposes of this rule,))~~ An appli-

cation((s)) to change carrier name or business structure ~~((means the following))~~ is required when:

(a) ~~The carrier changes ((of the carrier's)) its~~ registered name, with no change in ownership or business structure.

(b) ~~The carrier changes ((of)) its~~ business structure;

(i) ~~From an individual to a corporation ((to incorporate an individual's business)) or limited liability corporation (LLC), when the individual is the majority stockholder((, or by an)).~~

(ii) ~~From an individual to a partnership, when the individual is the majority partner((, or)).~~

(iii) ~~From a corporation or LLC to a proprietorship of the majority shareholder((, or by)).~~

(iv) ~~From a partnership to a proprietorship of the majority partner.~~

(c) ~~((Change of)) The carrier changes its name ((resulting from)) because of a change in business structure from a partnership to a corporation ((established to incorporate the partnership business,)) or LLC when the partners are the majority stockholders in the same proportionate ownership.~~

(d) ~~((Change of)) The carrier changes its name resulting from a change in business structure from a corporation or LLC to another corporation or LLC where both corporations are wholly owned by the same stockholders in the same proportions.~~

(2) A carrier must file a new permanent common carrier application ~~((is required, rather than a change of name,))~~ when the resulting business entity does either more or less than assume all of the existing business.

~~((H)) (3) A carrier must file a new permanent common carrier application when the transaction involves the sale or acquisition of assets other than the property of the acquired or substituted business((,)) or ((the)) if the carrier conducts ((of)) different activities((, a new permit must be applied for)).~~

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-220 ~~((Permits, cancelled—New))~~ Application for reinstatement of a canceled permit.** ~~((When a permit is cancelled by the commission either for cause, or on request of the carrier, the carrier may secure a new permit by correcting)) (1) A common carrier may apply to reinstate a canceled permit within ten months of the cancellation date provided the carrier:~~

(a) ~~Corrects~~ the cause of cancellation~~((, satisfying)).~~

(b) ~~Satisfies~~ any outstanding fees or filings~~((, and submitting)).~~

(c) ~~Submits~~ the appropriate application ~~((with the pertinent application))~~ and fee ~~((within ten months after date of cancellation))~~ as required in WAC 480-14-140.

(2) If the common carrier does not ~~((filed))~~ file for reinstatement within ten months~~((, the application will be considered in all respects as))~~ of cancellation, it must submit a new application ~~((and must be accompanied by full fees and))~~ for a common carrier permit under WAC 480-14-190 subject to all provisions ~~((of))~~ in WAC 480-14-180.

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-230 ~~((Operation of equipment by a cancelled or suspended carrier; voluntary cancellation; involuntary suspension and cancellation of a permit. ((1) The operation))~~ Suspension and cancellation of a permit.** ~~((1) The operation)) A common carrier may not operate any of its equipment ~~((in any manner by a carrier whose))~~ while its permit ~~((has been cancelled or))~~ is suspended ~~((is unlawful))~~ or canceled. ~~((Carrier permits may be suspended or cancelled by the commission under the following circumstances:~~~~

(2) **Voluntary cancellation.** A carrier may request that its permit be cancelled. Cancellation will be effective upon entry of an order of voluntary cancellation by the commission secretary. The commission will reinstate any permit that has been voluntarily cancelled by order of the secretary upon application of the carrier and payment of the required fee within ten months after the order of cancellation, provided the permit holder meets current entry requirements.

(3) **Policy regarding compliance activities; penalties; remediation; involuntary suspension or cancellation.** It is the policy of the commission that the purpose for the regulations implemented in this chapter is to secure compliance with laws and rules protecting the public health and safety, and that the commission shall direct its efforts toward education to the end that voluntary compliance is achieved.

(a) Penalties are intended as a tool of enforcement and remediation and may be assessed upon violations in the manner the commission believes will best assure future compliance by the responding carrier and other carriers.

(b) Involuntary suspension and cancellation are intended for circumstances in which the commission believes education and penalties have not been or will not be effective to secure compliance and for serious actions such as fraud, misrepresentation, and willful violation of legal requirements.

(4) **(1) Involuntary suspension.**

(a) The commission may suspend a carrier permit ~~((for cause. Cause includes, but is not limited to, the following circumstances:~~

(i) The carrier has failed to maintain evidence that it has the required level of insurance in effect for its operations.

(ii) The carrier fails or refuses to participate in compliance education or conferences, or fails or refuses to comply with rules or other requirements protecting the public health or safety following commission staff instructions regarding compliance.

(iii) The carrier commits or allows to exist an infraction of rule or law that poses an immediate danger to the public health or safety, when putting one or more vehicles out of service will not protect the public health or safety.

(b) The commission will provide to the carrier such notice as is feasible of a commission action suspending a permit, weighing the potential threat to the public health, safety or welfare and the effect of the suspension on the carrier.

(i) if the carrier fails to maintain evidence that it has the required level of insurance in effect for its operations.

(b) The commission will make a good faith effort to notify a carrier that its evidence of insurance is likely to become invalid~~((, but)).~~ The commission will suspend any carrier who fails to maintain evidence of current insurance

~~((on file with the commission)), whether or not it is able to provide advance notice.~~

~~((ii)) The commission may suspend a carrier permit, effective with the service of notice, when it believes that the carrier's continued operations pose an imminent danger to the public health, safety or welfare.~~

~~(e) The commission may suspend a permit without prior hearing when the action is needed to protect the public health, safety or welfare and there is insufficient time for a suspension hearing. A carrier whose permit is suspended may secure reinstatement of the permit by correcting conditions leading to suspension. A carrier may contest suspension by requesting a brief adjudication or an adjudication.~~

~~(5)) (2) **Voluntary cancellation.** A carrier may request that its permit be canceled. The commission will enter an order canceling the permit. The commission will reinstate the permit, provided the carrier meets current entry requirements, if the carrier applies for reinstatement and pays the application fee within ten months of cancellation.~~

~~(3) **Involuntary cancellation ((for cause)).** The commission may cancel a permit ((for cause. Cause includes, but is not limited to, the following circumstances)) because the carrier fails to:~~

~~(a) ((Failure to pay the)) Pay required regulatory ((fee or)) fees.~~

~~(b) ((Failure to)) Demonstrate that the carrier has corrected the conditions leading to suspension within the time defined in the order of suspension.~~

~~(c) ((Committing or allowing to exist violations of pertinent requirements of law or rule affecting the public health or safety when the commission has reason to believe that the carrier would not comply following a period of suspension.~~

~~(d) Repeated failure or refusal of the carrier to comply with regulatory requirements or to)) Provide information((;)) as required by the commission or ((the submission of)) submits false, misleading((;)) or inaccurate information ((of a sort that is necessary to the commission for performance of its functions)).~~

~~((6)) (4) **Cancellation hearing ((prior to)).** The commission will hold a hearing prior to canceling a carrier's authority, pursuant to RCW 81.80.280, except when cancellation results from failure to correct causes of a suspension in which an adjudication or brief adjudication was held or was available to the carrier. A carrier whose permit is cancelled may apply for reinstatement under WAC 480-14-220, or may apply for a new permit under WAC 480-14-180, if the carrier has corrected the causes of cancellation ((are corrected)).~~

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-240 Inactive status of permits during military service.** (1) When the holder of a common carrier permit is called into or enters the military service of the United States and must cease its common carrier operations ~~((over the public highways, the commission will upon application place that carrier's permit in an inactive file for the period of military service.~~

~~(2) The carrier shall file with the commission a written, informal application which lists)), the carrier may apply to~~

the commission, at no charge, for inactive status. The written, informal application must include:

(a) The applicant's name and permit number((;)).

(b) The branch of military service the applicant is to enter((;)).

(c) The date upon which the applicant requests the inactive status to begin((;)).

(d) A statement that the applicant will not permit its equipment to be operated under inactive status.

(2) Upon receipt of the properly completed application, the commission will place the permit in inactive status for the period of military service.

~~(3) ((Application for reinstatement of a)) The carrier must apply to reinstate its permit ((placed on inactive status during military service shall be made)) within six months after ~~((such))~~ military service has ~~((terminated))~~ ended. In its application, the carrier must state it will comply with the requirements of law governing its operations. The commission ~~((shall, at no charge,))~~ will grant reinstatement ((upon a showing of compliance with the requirements of the law governing operation over the public highways)) at no charge.~~

AMENDATORY SECTION (Amending Docket No. A-010827, General Order No. R-491, filed 9/28/01, effective 10/29/01)

**WAC 480-14-250 Insurance requirements~~((; cause for suspension or cancellation)).~~ (1) ~~((Requirements:))~~ Required insurance coverage.**

Each applicant for common carrier authority((;)) and each common carrier~~((; shall))~~ must file with the commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington, covering each motor vehicle as defined in RCW 81.80.010 used or to be used under the permit ~~((granted)).~~

(a) For vehicles with gross vehicle weight ratings of ten thousand pounds or more, filings ~~((shall))~~ must be for the amount shown on the following table:

Category of Carrier Operation	Filing Required
1. Property (nonhazardous) .....	\$750,000
2. Hazardous substances, as defined in 49 Code of Federal Regulations (CFR) 171.8 transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk <del>((Class A or B explosives, poison gas (Poison A), liquefied compressed gas or compressed gas))</del> <u>Division 1.1, 1.2 and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material, in bulk Division 2.1 or 2.2; or highway route controlled ((quantity radioactive materials)) quantities of a Class 7 material, as defined in 49 CFR ((473-455)) 173.403</u> .....	\$5,000,000
3. Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in 2. above or in 4. below .....	\$1,000,000

Category of Carrier Operation	Filing Required
4. Any quantity of ((Class A or B explosives)) <u>Division 1.1, 1.2, or 1.3 material</u> ; any quantity of ((poison gas (Poison A))) a <u>Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material</u> ; or highway route controlled ((quantity radioactive materials)) quantities of a <u>Class 7 material</u> , as defined in 49 CFR ((173.455)) <u>173.403</u> . . . . .	\$5,000,000

(b) For vehicles with gross vehicle weight ratings less than ten thousand pounds, filings shall be for the amounts shown on the following table:

Category of Carrier Operation	Filing Required
1. Property (nonhazardous) . . . . .	\$300,000
2. Property (hazardous); any quantity of ((Class A or B explosives)) <u>Division 1.1, 1.2, or 1.3 material</u> ; any quantity of ((poison gas (Poison A))) a <u>Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material</u> ; or highway route controlled ((quantity radioactive materials)) quantities of a <u>Class 7 material</u> , as defined in 49 CFR ((173.455)) <u>173.403</u> . . . . .	\$5,000,000

(c) ~~((For))~~ Insurance requirements do not apply to taxicabs whose only operation subject to commission jurisdiction is the operation of small parcel general freight service under a permit issued pursuant to chapter 81.80 RCW ((shall)). Those taxicabs must comply with the provisions of RCW 46.72.040 and 46.72.050 in lieu of the above. ((Such)) However, all carriers must comply with the reporting requirements of this section.

(d) ~~((Carriers registering under WAC 480-14-300 as registered interstate carriers may provide evidence of insurance in the amount prescribed by the Interstate Commerce Commission or its successor agency written by a company authorized to write insurance in any state.~~

~~((e) Failure to file and keep))~~ The commission may dismiss an application or suspend or cancel a permit if a carrier does not file proof that such insurance is in full force and effect ((shall be cause for dismissal of an application or cancellation of a permit)).

~~((f))~~ (e) Carriers must submit evidence of insurance ((shall be submitted)) by either ((on)) a Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance((, filed in triplicate with the commission,)) (Form E) or a written binder ((issued by an insurance agent or insurance company)) evidencing the required coverage((s as required above)). ((H)) A binder ((is submitted, it shall)) may not be effective for ((not)) longer than sixty days, during which time the carrier must file the ((required evidence of insurance)) Form E.

(2) Continuing proof of insurance((, continuation of)). ((Proper)) A carrier must file evidence of continued insurance ((shall be filed)) with the commission not less than ten days prior to the termination date of the current insurance ((then on file in order that there shall be no question of continuous coverage as required by law)).

(3) **Insurance endorsement.** All liability and property damage insurance policies issued to ~~((motor freight))~~ com-

mon carriers ((shall)) must carry a "uniform motor carrier bodily injury and property damage liability endorsement."

(4) **Insurance termination.** All insurance policies issued under the requirements of chapter 81.80 RCW ~~((shall))~~ must provide that the ((same shall)) coverage continues in full force and effect unless and until canceled by at least thirty days' written notice served on the insured and the ((Washington utilities and transportation)) commission by the insurance company((, with)). The thirty days' notice ((to)) must commence to run from the date notice is actually received by the commission((, except for binders which may be cancelled on ten days' written notice)).

~~((Notice of cancellation or expiration shall be submitted in duplicate))~~ (a) An insurance binder may be canceled on ten days' written notice.

(b) The carrier or carrier's insurance company must notify the commission of cancellation or expiration on forms prescribed by the commission ((and shall not be submitted)).

(c) The carrier or carrier's insurance company must provide notice of cancellation or expiration not more than sixty days before the ((desired)) termination date, except binders which may be ((cancelled by written notification from the insurance agency or the insurance company)) canceled on ten days' written notice.

~~((No common carrier may operate upon the public highways of this state without insurance as required in this section. The permit of any common carrier who fails to maintain evidence on file that its insurance is in current force and effect as required herein shall be suspended by operation of law beginning with the time of the failure, until the permit is canceled or the cause of the suspension is cured and the permit is reinstated. The commission will make a good faith effort to notify carriers of impending suspension for failure to maintain evidence of insurance and will make a good faith effort to enter a timely order of suspension, but failure to do so shall not invalidate the suspension.~~

~~((5) Information about 49 CFR regarding the version currently in effect and where to obtain it is set out in WAC 480-14-999.))~~

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-290 Interstate operations((, requirements, definitions)).** ~~((It shall be unlawful for any carrier to perform any))~~ No person may perform interstate transportation service for compensation upon the public roads of this state without first having secured appropriate authority from the ((Interstate Commerce Commission)) United States Department of Transportation (USDOT) or its successor agency((, if that authority is required, and without possessing valid insurance and valid evidence that it has registered as specified in these rules.

~~((1) Registered carriers. Carriers operating in interstate or foreign commerce under authority issued by the Interstate Commerce Commission or its successor agency are "registered carriers."~~

~~((2) Registered exempt carriers. 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 or its successor agency are "registered exempt carriers."

(3) ~~Compliance required.~~ Registered and registered exempt carriers in the conduct of interstate operations must comply with the laws and rules that apply to that activity and to equipment in which it is conducted. Interstate carriers conducting Washington intrastate operations must, as to the intrastate activity, comply with the laws and rules applicable to the activity and to equipment in which it is conducted).

AMENDATORY SECTION (Amending Order R-435, Docket No. TV-941290, filed 11/22/95, effective 12/23/95)

**WAC 480-14-300 ((Registered)) Interstate carrier((s)) fees.** ~~((1) It shall be unlawful for)~~ A carrier operating under interstate authority issued by the ~~((Interstate Commerce Commission or its successor agency to operate a vehicle in interstate commerce on the public roads of this state without having first secured valid insurance as required by the Interstate Commerce Commission or its successor agency, registered with a base state as required in 49 CFR Part 1023, paid the required Washington state registration fee for that vehicle, and without having in the vehicle a legible receipt showing base state registration. The receipt shall be subject to inspection at all times by the law enforcement agents and the commission's representatives.~~

(2) The registration fee for registered carriers in Washington state is ten dollars for each vehicle operated within the state.

(3) Washington-based carriers. Washington is a participant in the base state insurance registration program established in 49 USC § 11506 and 49 CFR Part 1023. Any carrier whose base state as defined in federal regulation is Washington state shall register for interstate operations as follows:

(a) Between August 1 and November 30 of each year, each such Washington-based interstate carrier shall apply to the commission to register for the following year.

(b) The registering carrier shall state the number of vehicles to be operated in each participating state, provide other required information, and submit the registration fee established by that state for each such vehicle.

(c) The commission within thirty days will provide to the carrier a receipt or receipts showing, at a minimum, the carrier's name and address, its Interstate Commerce Commission or successor agency permit number, and the names of the states for which it has registered.

(d) The carrier shall place a receipt or an authorized copy in each vehicle for which it has paid the required fee.

(e) Any Washington-based carrier that begins interstate operations in a state for which it has not registered may register for that state at any time, stating the number of vehicles to be operated in each state and submitting the required information and registration fee for each vehicle. The commission will provide a new receipt, if the carrier has not previously registered, or supplemental receipt, if it has registered, showing the states for which the carrier has registered.

(4) No carrier may operate a vehicle in Washington state that is not registered as specified in this rule unless it is registered for interstate exempt traffic under WAC 480-14-320)) United States Department of Transportation (USDOT) or its

successor agency must register with the commission and pay fees as required by the Uniform Carrier Registration (UCR) program or any successor program as required by the laws and rules of USDOT.

AMENDATORY SECTION (Amending Docket A-081419, General Order R-554, filed 12/23/08, effective 1/23/09)

**WAC 480-14-999 Adoption ((of)) by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publication((s)), effective dates, references within this chapter, and availability of the resource((s) are as follows:

(1) ~~North American Standard Out of Service Criteria (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA):~~

(a) ~~The commission adopts the version in effect on April 1, 2006:~~

(b) ~~This publication is referenced in WAC 480-14-360 (Equipment Inspection Ordered out of service for repairs), WAC 480-14-370 (Equipment Drivers Safety), and WAC 480-14-390 (Hazardous materials regulations):~~

(c) ~~The North American Out of Service Criteria is a copyrighted document. Copies are available from CVSA in Washington, D.C.~~

(2)) is within Title 49 Code of Federal Regulations(~~(cited as 49))~~ (CFR), including all appendices and amendments is published by the United States Government Printing Office.

((a)) (1) The commission adopts the version in effect on April 30, 2008, for 49 CFR Parts 171, 172 and 395.

((b)) (2) This publication is referenced in WAC 480-14-250 (Insurance requirements; cause for suspension or cancellation) ((and WAC 480-14-380 (Hours of service—On duty—Federal safety regulations))).

((c)) (3) Copies of Title 49 ((Code of Federal Regulations)) CFR are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-14-070	Federal regulations, 49 CFR, Part 390—General applicability and definitions.
WAC 480-14-080	Rule book fee—Updates—Notification of pending and adopted rule changes—Compliance with rules.
WAC 480-14-130	Remittances.
WAC 480-14-170	Periodic reporting requirements.
WAC 480-14-260	Leasing.

WAC 480-14-320	Registered exempt carriers.
WAC 480-14-340	Equipment—Identification.
WAC 480-14-350	Equipment, lawful operation of.
WAC 480-14-360	Equipment—Inspection—Ordered out-of-service for repairs.
WAC 480-14-370	Equipment—Drivers—Safety.
WAC 480-14-380	Hours of service—On duty—Federal safety regulations.
WAC 480-14-390	Hazardous materials regulations.
WAC 480-14-400	Transportation of radioactive materials—Driving and parking rules.
WAC 480-14-420	Optional provisions.
WAC 480-14-900	Appendix A.

Reasons Supporting Proposal: The changes are necessary to update the rules and make them easier and clearer to read by updating internal references to titles, college staff, procedures, etc.

Statutory Authority for Adoption: RCW 28B.50.140, 34.05.010.

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

Name of Proponent: South Puget Sound Community College, governmental.

Name of Agency Personnel Responsible for Drafting: President's staff (vice-presidents), Building 25, 22, (360) 596-5202; Implementation and Enforcement: President's staff, Building 25, 22, (360) 596-5202.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 2, 2009

Gerald Pumphrey

College President

**WSR 09-18-114**  
**PROPOSED RULES**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**  
[Filed September 2, 2009, 9:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-15-037.

Title of Rule and Other Identifying Information: Chapter 132X-10 WAC, Public records; chapter 132X-30 WAC, Use of college facilities; chapter 132X-50 WAC, Parking and traffic regulations—South Puget Sound Community College; and chapter 132X-60 WAC, South Puget Sound code of student rights and responsibilities.

Hearing Location(s): Boardroom, Student and Administrative Services Building #25, South Puget Sound Community College, 2011 Mottman Road S.W., Olympia, WA 98512-6292, on November 4, 2009, at 3:00 p.m.

Date of Intended Adoption: November 4, 2009.

Submit Written Comments to: Diana Toledo, South Puget Sound Community College, 2011 Mottman Road S.W., Olympia, WA 98512-6292, e-mail [dtoledo@spscc.ctc.edu](mailto:dtoledo@spscc.ctc.edu), fax (360) 586-3570, by October 28, 2009.

Assistance for Persons with Disabilities: Contact Diana Toledo by October 28, 2009, TTY (360) 596-5439.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 132X-10 WAC, to reflect updates to the state WAC numbering system and to update college title changes; chapter 132X-30 WAC, to simplify language and refer to existing procedures; chapter 132X-50 WAC, to update title change and internal reference; and chapter 132X-60 WAC, to update title and name changes, refer to existing college procedures, and identify and clarify college staff.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-10-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the South Puget Sound Community College District 24 with the provisions of chapter ((42.17)) 42.56 RCW, ((~~Disclosure—Campaign finances—Lobbying—~~) Public Records((~~— and in particular with RCW 42.17.250 through 42.17.340, dealing with public records~~)) Act.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-10-050 Public records available.** All public records of the college, as defined in WAC 132X-10-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW ((42.17.310, 42.17.315, 42.17.260(1))) 42.56.210, 42.56.320 and WAC 132X-10-100.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-10-060 Public records officer.** The college's public records shall be in the charge of the public records officer designated by the president. The person so designated at the college is the ((~~vice-president for~~) chief human resources officer. The public records officer shall be responsible for the following: The implementation of the college's rules and regulations regarding release of public records, coordinating the staff of the college in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of RCW ((42.17.250 through 42.17.340)) 42.56.040 through 42.56.550.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-10-080 Requests for public records.** In accordance with requirements of RCW ((42.17.250 through 42.17.340)) 42.56.040 through 42.56.550 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request should be made in writing upon a form prescribed by the college which shall be available at its administrative office. The form shall be presented to the public records officer and/or his/her designees, at the administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the college's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer and/or his/her designees, to assist the member of the public in appropriately identifying the public record requested.

(3) The public records officer and/or his/her designee to whom the request is presented shall, by the close of five business days:

- (a) Make the requested document available; or
- (b) State that such a document does not exist; or
- (c) Ask for clarification of the document requested; or
- (d) Deny access because the document is exempt from public inspection under WAC 132X-10-050.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-10-100 Exemptions.** (1) The college reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132X-10-080 is exempt under the provisions of RCW ((42.17.310, 42.17.315 and 42.17.260)) 42.56.210, 42.56.320 and 42.56.070.

(2) In addition, pursuant to RCW ((42.17.260)) 42.56.070, the college reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer and/or his/her designee will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for

the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(4) The release or disclosure of student educational records is governed by federal regulation (FERPA). Separate and different procedures are established by the college for student educational records.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-10-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer and/or his/her designees which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer and/or his/her designee denying the request shall refer it to the president. The president or his/her designee shall consider the college's obligation to comply with the intent of chapter ((42.17)) 42.56 RCW, the exemptions provided in RCW ((42.17.310)) 42.56.210 or other pertinent statutes, and the statutory provisions which require the college to protect public records from damage or disorganization, prevent excessive interference with essential college functions, and prevent any unreasonable invasion of personal privacy by deleting identifying details. In any case, the request shall be returned with a final decision, within five business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the college has returned the petition with a decision or until the close of the fifth business day following denial of inspection, whichever occurs first.

(4) Whenever the college concludes that a public record is exempt from disclosure and denies inspection and copying, the requestor may request a review of the matter by the office of the attorney general. A written request for review by the attorney general's office, along with a copy of the request and the college's written denial should be sent directly to the office of attorney general in Olympia, Washington. The office of the attorney general will conduct a prompt and independent review of the request and the college's denial and provide a written opinion as to whether the record requested is exempt from disclosure. This review is not binding upon the college or the requestor.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-30-010 General policy.** ((South Puget Sound Community College District 24 is an educational institution provided and maintained by the people of the state. Its campuses, buildings, properties and facilities shall be reserved at all times for those activities which are related to its broad educational objectives and goals. However, the facilities, when not required for scheduled college use, are available for rental by the public in accordance with specified fee schedules and other regulations and procedures for such

use:)) It shall be the policy of South Puget Sound Community College to allow rental of college facilities when they are not previously scheduled for college use to noncollege organizations or any individuals upon approval by the president or designee, and in accordance with administrative regulations.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-30-030 Trespass regulations.** ~~((+))~~ In order to safeguard the right of every citizen to criticize and to seek meaningful change, each individual has an obligation to respect the rights of all members of the college community.

(2) In order to assure those rights to all members of the college community and to maintain a peaceful atmosphere, the following types of conduct are hereby prohibited on or in college property:

(a) ~~Conduct which intentionally and substantially obstructs or disrupts teaching or freedom of movement or other lawful activities on the college campus;~~

(b) ~~Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on the college campus;~~

(c) ~~Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus;~~

(d) ~~Refusal to comply with any order of the president, the president's designee, or a law enforcement officer to leave the college campus or any portion thereof;~~

(e) ~~Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steels it to the conduct prohibited herein.)~~

(3) ~~Guests and visitors on college property who willfully refuse to obey an order of the president, the president's designee, or a law enforcement officer to desist from conduct prohibited by the above rules and regulations may be ejected from the premises.~~

~~Refusal to obey such an order will subject the person to arrest under the provisions of the Criminal Trespass Act, in addition to such other sanctions as may be applicable.~~

(4) ~~Persons who repeatedly engage in any conduct prohibited above may be barred permanently from college property. Before being barred permanently, a person will be given the following:~~

(a) ~~Written notice sent to the person's last known address specifying the charges against the person; and~~

(b) ~~The opportunity to request a hearing with the president or the president's designee within two weeks from the date notice is sent.~~

~~The written notice shall inform the person that he or she may produce and question witnesses, and that failure to request a hearing within the time specified constitutes a waiver of the person's right to such hearing. The college shall have the burden of proving that the person repeatedly engaged in conduct prohibited by subsection (2) of this section. After the hearing, if one is requested, the president or the president's designee may decide to bar the person from col-~~

~~lege property permanently, to grant the person a limited license to enter onto college property, or to grant the person full access to college property. A copy of the decision will be sent to the person's last known address within two weeks after the hearing:))~~ The college president or designee, acting through campus security, shall have the authority and power to:

(1) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or

(2) Give notice against trespass to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility; or

(3) Order any person, persons, or group of persons to leave or vacate all or any portion of a college facility.

Such authority and power may be exercised to halt any event that is deemed to be unreasonably disruptive of order or threatens to disrupt the movement of persons from facilities owned and/or operated by the college. Any student or person who shall disobey a lawful order given by the college president or designee pursuant to the requirements of this section shall be subject to disciplinary and/or legal action.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132X-30-020	Administrative control.
WAC 132X-30-040	Scheduling.
WAC 132X-30-050	Users.
WAC 132X-30-060	Limitations of use.
WAC 132X-30-070	Fees.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-50-030 Definitions.** As used in this chapter, the following words and phrases shall mean:

(1) "Annual permits": Permits which are valid from the date of issue until the first day of the following fall quarter. Annual permits are sold during fall quarter.

(2) "Board": The board of trustees of South Puget Sound Community College, District 24.

(3) "Campus": All lands and buildings devoted to, operated by, or maintained by South Puget Sound Community College, District 24.

(4) "Campus security officer": An employee of the college who is responsible for campus traffic control, parking, security, and safety.

(5) "College": South Puget Sound Community College, District 24.

(6) "Director of security": The college's safety and security supervisor.

(7) "Employee": Any individual appointed to the faculty, staff, or administration of the college. Student employ-



ment positions or college work study positions are not considered employees of the college in these definitions.

~~((7))~~ (8) "Full-time employee": An employee of the college employed twenty hours or more per week on a permanent regular basis.

~~((8))~~ (9) "Full-time student": Any person who is enrolled at this college and is taking ~~((ten))~~ twelve credits ~~((hours))~~ or more ~~((on the main campus))~~.

~~((9))~~ (10) "Guests/visitors": ~~((A person or))~~ Persons who come upon the campus as guests and ~~((person or))~~ persons who lawfully visit the campus.

~~((10))~~ (11) "~~(Main)~~ Mottman campus": All lands and buildings located at 2011 Mottman Road S.W., Olympia, WA.

~~((11))~~ (12) "Part-time employee": An employee of the college employed less than twenty hours per week. Student employees or college work study employees are not classified as part-time employees under these definitions.

~~((12))~~ (13) "Part-time student": Any person who is enrolled at this college and is taking ~~((nine))~~ eleven credits ~~((hours))~~ or less ~~((on the main campus))~~.

~~((13) "Safety and security supervisor": The college's safety and security supervisor.))~~

(14) "Security office": The college's campus security office.

(15) "Temporary permits": Permits which are valid for a specific period designated on the permit.

(16) "Vehicle": Automobile, truck, motor-driven cycle, scooter or any vehicle otherwise powered.

(17) "Vice-president for administrative services": The vice-president for administrative services for South Puget Sound Community College, District 24.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-50-040 Authorization for issuance of permits.** The ~~((safety and security supervisor))~~ director of security, or designee, is authorized to issue parking permits to students, administrators, exempt employees, faculty, staff, guests and visitors to the college, pursuant to the following regulations:

(1) A person may be issued a parking permit upon the proper registration of his/her vehicle with the college.

(2) The ~~((safety and security supervisor))~~ director of security, or a designee, may issue temporary, permanent or special parking permits when such permits are necessary to enhance the business or operation of the college.

(3) Additional permits are available at the current fee schedule to individuals who have registered other vehicles. Only one vehicle registered to an individual under one permit fee shall be permitted to park on campus at any one time.

(4) Persons who pay the current fee for parking permits and who later request a refund shall receive refunds according to the refund policy published in the college catalogues and bulletins. The person must first turn in the current quarter/annual permit to the cashier's office, before a refund will be issued.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132X-50-190 Parking advisory committee.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-010 Preamble.** South Puget Sound Community College is dedicated not only to learning and the advancement of knowledge but also the development of ethically sensitive and responsible persons. It seeks to achieve these goals through a sound educational program and policies concerning conduct that encourage independence and maturity while strengthening the spirit of mutual cooperation and responsibility shared by all members of the college community. Sharing goals held in common, the students, faculty, and staff of South Puget Sound Community College are joined in voluntary association in an educational community.

~~((The student is, first of all, a member of the community at large, and as such, is entitled to the rights and responsibilities of any citizen of comparable age and maturity. In addition, students, as members of the college, are in the unique position of being citizens of two communities, subject to the regulations imposed by both and accountable to both. South Puget Sound Community College expects that students will respect the laws of the greater society. As an agency of the state of Washington, the college must respect and adhere to the regulations established by local, state, and federal authorities. As an educational institution, it has the added responsibility for assisting students in gaining an understanding of the law and its function, and the responsibilities imposed upon each individual in a democratic society to respect and support the legal structure which protects the individual and the society. As a functioning organization, it also has the responsibility to develop a set of regulations to assure the orderly conduct of the affairs of the college.))~~

Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges and property of other members of the college community and will not interfere with legitimate college affairs.

~~((An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights and responsibilities in this document are critical ingredients in the free, creative, and spirited educational environment to which the students, faculty and staff at South Puget Sound Community College are committed.))~~

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-015 Definitions.** As used in this *Code of Student Rights and Responsibilities* the following words and phrases shall mean:

(1) **SPSCC senate** means the representative governing body for students at South Puget Sound Community College recognized by the board of trustees.

(2) **Assembly** means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminated information to any person, persons or group of persons.

(3) **Board** means the board of trustees of South Puget Sound Community College, District 24~~((state of Washington))~~.

(4) **College** means South Puget Sound Community College ~~((located within Community College))~~, District 24~~((state of Washington))~~.

(5) **College facilities** means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) **College personnel** refers to any person employed by Community College District 24 on a full-time or part-time basis, except those who are faculty members.

(7) **Disciplinary action** means and includes dismissal or any lesser sanction of any student by the vice-president for student services, the student hearing committee, college president, or the board of trustees for the violation of any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

(a) The college president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college for a period not to exceed ten academic calendar days.

(b) The college president or designee shall have the authority to take any disciplinary action including the authority to dismiss any student of the college.

(8) **District** means Community College District 24, state of Washington.

(9) **Faculty member(s)** means any employee of South Puget Sound Community College who is employed on a full-time or part-time basis ~~((as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments))~~.

(10) **President** means the duly appointed chief executive officer of South Puget Sound Community College, District 24, ~~((state of Washington,))~~ or in his/her absence, the designee.

(11) **Recognized student organization** means and includes any group or organization composed of students which is recognized formally by the student government of the college.

(12) **A sponsored event or activity** means any activity that is scheduled by the college and is supervised and controlled by the college's faculty members or college personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or college personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college's faculty member or college personnel responsible for the event or activity shall be deemed to be a non-sponsored activity.

(13) **Student**, unless otherwise qualified, means and includes any person who is enrolled for classes or formally in the process of applying for admission to the college.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-020 Jurisdiction.** All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function which is held on or in noncollege facilities not open to attendance by the general public.

Persons aiding or abetting a student's breach of this code shall be subject to having their privilege removed as to remaining on college property or engaging in college-sponsored activities, and/or appropriate disciplinary action pursuant to ~~((HEPB rules or faculty and administrative rules and regulations of conduct))~~ this code, college policies and procedures, and/or state civil or criminal law. If the privilege to remain on campus is revoked, trespassers shall be subject to possible arrest and prosecution under the state criminal trespass law.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-035 Authority to prohibit trespass.** ~~((+))~~ The college president ~~((is authorized in the instance of any event that the college president deems impedes the movement of persons or vehicles or which the college president deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities, and the college president acting through the vice president for student services, or such other designated person))~~ or designee, acting through campus security, shall have the authority and power to:

~~((a))~~ (1) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or

~~((b))~~ (2) Give notice against trespass to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility; or

~~((c))~~ (3) Order any person, persons, or group of persons to leave or vacate all or any portion of a college facility.

~~((2))~~ Any student who shall disobey a lawful order given by the campus president or designee pursuant to the requirements of subsection (1) of this section shall be subject to disciplinary action.) Such authority and power may be exercised to halt any event that is deemed to be unreasonably disruptive of order or threatens to disrupt the movement of persons from facilities owned and/or operated by the college. Any student or person who shall disobey a lawful order given by the college president or designee pursuant to the requirements of this section shall be subject to disciplinary and/or legal action.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-050 Student records.** In compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations, ((45)) 34 CFR § 99, this policy has been created to insure confidentiality of student records at the college and govern the release of personally identifiable information contained within.

(1) Education records. Education records are defined as those records, files, and documents containing information directly pertaining to a student. At South Puget Sound Community College these are:

(a) Records pertaining to admission, advisement, registration, grading and progress to a degree that are maintained by enrollment services.

(b) Testing information used for advisement purposes by the counseling center.

(c) Information concerning payment of fees as maintained by the treasurer.

(d) Financial aid information as collected by the financial aid office.

(e) Information regarding students participating in student government or athletics that is maintained by the student programs office.

(2) Access to education records. Students who are or have attended the college have the right to examine or review their personal records, as defined above, by submitting to the registrar a written request indicating education records to which access is desired.

(3) Directory information. The following information is considered "directory information" and thus may be disclosed without consent of the student, unless otherwise directed by the student, at any time, to the registrar in writing: The student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, academic honors, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) Disclosure from education records. In addition to directory information the college will, at its discretion, make disclosures from education records of students with the student's prior written consent or to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students where officially elected or appointed to the ASB-SPSCC senate or employed by the college. Access or release of records to the above is permissible only when the information is required for the advisement, counseling, recordkeeping, reporting, or other legitimate educational interest consonant with their specific duties and responsibilities.

(b) To officials of another school in which the student seeks or intends to enroll.

(c) To authorized federal, state, or local officials as required by law.

(d) In connection with financial aid for which the student has applied or received.

(e) To accrediting organizations, or organizations conducting studies for or on behalf of the institution.

(f) To appropriate parties in a health or safety emergency.

(g) To persons in compliance with a judicial order or a lawfully issued subpoena, provided that the college first makes a reasonable effort to notify the student.

(h) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954, upon receipt of a written affidavit stating that the student is a dependent for income tax purposes. This, however, will not affect the other rights of the student.

In cases where consent of the student is required for release of education records, the student shall in writing, signed and dated by the student, specify: The records to be disclosed, the purpose or purposes of the disclosure, and the name of the party or parties to whom the disclosure can be made.

When personally identifiable information is released without prior consent of the student, other than directory information and information released to college officials or the student, the college official in charge of these records will record the names of the parties who have requested information from educational records and the nature of the interest in that information.

Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third party disclosures to other parties listed in (a) through (h) of this subsection.

(5) Challenge of education records. Students who believe that information contained in their education records is inaccurate, misleading or violates the privacy or other rights of the student may request in writing to the appropriate college official that the college amend their record(s). The college official(s) will make every effort to settle disputes through informal meetings and discussion with the student.

In instances where disputes regarding contents of education records cannot be resolved by the parties concerned, the college official involved shall advise the student of the right to a hearing by the academic standards committee through a written request to the administrator for enrollment services. Should the academic standards committee deem that the education records in question are inaccurate or misleading, the committee can ask that the records be amended by the appropriate college official. If the education records are held to be accurate, the student shall be granted the opportunity to place within those records a personal statement commenting upon the information contained within.

Each eligible student is afforded the right to file a complaint concerning alleged failures by the college to comply with the requirements of the act. The address of the office designated to investigate, process, and review violations and complaints which are filed is:

The Family Educational Rights and Privacy Act Office (FERPA)  
Department of Health, Education and Welfare  
330 Independence Avenue S.W.  
Washington, D.C. 20201

Copies of the Federal Register pertaining to the Family Education Rights and Privacy Act may be obtained from:

Superintendent of Documents  
U.S. Government Printing Office  
Washington, D.C. 20402

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-060 Student publications.** The college will establish a student publications policy relating to officially sponsored publications and create a student publications board charged with the enforcement of the policy. The publications board shall be composed of an administrator and three faculty appointed by the college president, and three students appointed by the associated student body president. These students shall not, while serving on the board, hold any student publications position appointed by the student publications board and shall not serve on any superior budgetary body.

The student publications policy shall protect the students' freedom to deal with any ideas and to express any opinions in the student publications without fear of their censorship. Editors and managers of student publications are protected from arbitrary suspension and removal. Only for proper and stated causes, as outlined in the statement of purpose or philosophy adopted for each student publication, should editors and managers be subject to removal and then by orderly and prescribed procedures.

The student editors and managers must practice responsible journalism and have freedom of expression as outlined in the "South Puget Sound Community College Student Publications Code," ((June 1999, Article I, A and B.

~~The operational responsibilities of the publication board are outlined in the "South Puget Sound Community College Student Publications Code" June 1999, Article IX:~~

- ~~(1) Appointment of each publication's editor.~~
- ~~(2) Reviewing budget requests of each student publication, prior to the submittal of those requests, recommending action on funding.~~
- ~~(3) Review any complaints pertaining to student publications.~~
- ~~(4) Resolve complaints about student editors and managers.)~~

AMENDATORY SECTION (Amending WSR 03-03-089, filed 1/16/03, effective 2/16/03)

**WAC 132X-60-065 Distribution and posting of materials.** Permission for the posting of materials and literature on college property is not required in designated posting areas on the campus.

Permission for the posting of materials and literature on college property shall be obtained from the following college officials:

(1) The dean of student ~~((programs))~~ life for the posting of materials in nondesignated areas in the student union building, the college center, hallways, within buildings and those areas located on campus outside of college buildings.

(2) No posting will be allowed on railings unless paint protection devices are used. Permission for any such postings must have the prior approval of the dean of student ~~((pro-grams))~~ life.

(3) The appropriate college vice-president for permission for the dissemination and distribution of materials in other areas of the college campus, buildings, or facilities.

In addition, the following apply to the posting of materials:

- (4) No posting of obscene materials.
- (5) No materials will be posted or tacked on trees or the covered walkway gazebo(s).

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-070 Use of college facilities.** Any ~~((recognized associated students of South Puget Sound Community College))~~ chartered student club or organization may request use of available college facilities for authorized activities. Facilities will be provided free of charge to the organization except when such use necessitates staffing and services beyond regular college requirements. Standard college fees will be charged in these cases.

Use of facilities for purposes other than those approved or in an irresponsible manner may result in withdrawal of this privilege for ~~((an))~~ the student club or organization.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-080 Student complaints ~~((and grievances))~~.** The purpose of these procedures is to establish a process where a student may express and resolve misunderstandings ~~((or))~~ or complaints ~~((or grievances))~~ with any college employee in a fair and equitable manner. This procedure emphasizes an informal resolution.

A complaint is any expression of dissatisfaction with the performance of a college employee or procedure. The student who has a complaint about an action of a college employee should use the following procedure:

Nonacademic complaints

(1) Initiating a nonacademic complaint:

(a) The student complainant and the college employee should make a good faith effort to resolve the grievance on a one to one basis within fifteen ~~((instructional))~~ calendar days from the date of the complaint. In the event of absence from campus by the employee, the student shall contact the organizational unit administrator for advice on how to proceed with the complaint. If the student feels that he/she cannot meet face-to-face with the employee he/she may directly contact the organizational unit administrator.

(b) If the student determines that a complaint cannot be resolved appropriately with the employee concerned, the stu-

dent may contact the organizational unit administrator of the employee to facilitate a solution to the ~~((grievance))~~ complaint.

(c) If a complaint filed with the appropriate organizational unit administrator has not been resolved, the student may proceed with a formal complaint.

(2) Proceeding with a formal nonacademic complaint:

(a) Office to address: Complaints regarding an instructional employee or policy shall be addressed to the vice-president ~~((of))~~ for instruction or designee. Complaints regarding an administrative services employee or policy shall be addressed to the vice-president ~~((of))~~ for administrative services or designee. Complaints regarding student services employees ~~((or other college personnel))~~ shall be addressed to the vice-president ~~((of))~~ for student services or designee.

(b) The vice-president/designee shall discuss with the student the concerns and options available to resolve the concern. If the student should elect to proceed with the formal complaint the student must outline in writing the complaint, identifying dates and persons involved ~~((as accurately as possible))~~.

(c) The vice-president shall also inform the student that the student may ask the vice-president for student services or another person the student chooses to act as an advocate in assisting the student in the completion of the complaint process.

(d) The student's written complaint shall be forwarded to the employee concerned who shall provide a written response within ten instructional days.

(e) If the written response does not resolve the complaint to the satisfaction of the student, the vice-president ~~((shall convene a conference of all the involved parties within ten instructional days to (i) attempt to resolve to the satisfaction of all parties the complaint and/or (ii) hear the issue(s) and take appropriate action(s) to resolve the complaint))~~ will review the written documentation and take appropriate action(s) to resolve the issue. Such action may include convening a meeting of all involved parties.

(f) Action taken by the vice-president, if any, may be appealed to the president, and must be done in writing within ten ~~((instructional))~~ calendar days. The decision of the president is final.

~~(((3) Discrimination grievances:~~

~~Students who believe they have been discriminated against as defined in Title VII and Title IX of the Higher Education Act or Section 504 of the Handicapped Assistance Act may file a grievance through the human resources office.~~

~~(4) Academic grievances:))~~

Academic complaints

Students with an academic ~~((grievance))~~ complaint should first contact the instructor and attempt to resolve the issue(s). If unable to resolve the issue(s), the student should contact the appropriate ~~((division chair))~~ dean or director. If still unable to resolve the issue(s), the student should contact the supervising vice-president ~~((for instruction))~~. The decision of the vice-president shall be final.

Discrimination complaints

Students who believe they have been discriminated against, including harassment and sexual harassment may pursue an institutional complaint under the procedures out-

lined in the *South Puget Sound Community College Nondiscrimination Policy and Discrimination Complaint/Grievance Procedures* and/or may pursue other remedies provided by law. Procedures for filing discrimination complaints, other than those related to disability discrimination or denial of accommodations, may be found at <http://www.spscc.ctc.edu/about/pdf/discrimination-complaint-procedures.pdf>.

Procedures for filing disability discrimination complaints or denial of accommodations are addressed by the *South Puget Sound Community College Procedures and Appeals Process for Accommodating Students with Disabilities and Disability Discrimination Complaints*. Those procedures may be found at [http://www.spscc.ctc.edu/campus-life/student-services/student-support/Disability Accommodation Procedures 2007.pdf](http://www.spscc.ctc.edu/campus-life/student-services/student-support/Disability%20Accommodation%20Procedures%202007.pdf).

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-090 Violations.** ~~((Any student shall be subject to disciplinary action who, either as a principal actor or aider or abettor commits any of the following which are hereby prohibited:))~~ Any student found to have committed or to have attempted to commit the following violations is subject to the disciplinary sanctions outlined in WAC 132X-60-120:

(1) Abusive conduct: Physical and/or verbal abuse of any person or conduct, including hazing and initiations which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(2) Destroying or damaging property: Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(3) Dishonesty: All forms of dishonesty including: Cheating; plagiarism; knowingly furnishing false information to the college; intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency, on college premises or at any college-sponsored activity; forgery; alteration or use of college documents or instruments of identification with intent to defraud.

(4) Disorderly conduct: Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.

(5) Drugs: Using, possessing, furnishing, or selling any narcotic or dangerous drug as those terms are used in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical practitioner.

(6) Inciting others: Intentionally inciting others to engage in any prohibited conduct as defined herein, which incitement directly leads to such conduct. Inciting is the advocacy which prepares the group or individual addressed for immediate action and compels that individual or group to engage in the prohibited conduct.

(7) Insubordination: Failure to comply with lawful directions of college personnel acting in performance of their lawful duties.

(8) Liquor: Possessing, consuming, or furnishing of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by law.

(9) Theft: Theft or conversion of college property or private property.

(10) Trespass/Unauthorized presence: Entering or remaining unlawfully, as defined by state law, or using college premises, facilities, or property, without authority.

(11) Sexual harassment: ~~((It is the policy of the college that employees and students must be allowed to work and learn in an environment free from sexual harassment. Sexual harassment is expressly prohibited and will not be tolerated.~~

~~Sexual harassment is)) Unwelcome sexual advances, requests for sexual favors, other verbal or physical conduct of sexual favors, or other verbal or physical conduct of the sexual nature of employees toward students, supervisors toward supervisees, students toward students, or students toward employees. Sexual harassment complaints are covered by the college's *Nondiscrimination Policy and Discrimination Complaint/Grievance Procedures* at: <http://www.spscc.ctc.edu/about/pdf/discrimination-complaint-procedures.pdf>.~~

~~((Complaints of sexual harassment should be made orally or in writing to the vice president for human resources (cases involving staff) or the vice president for student services (cases involving students). Complaints should be reported promptly (within thirty days) in order to help ensure effective investigation and resolution. Complaints will be promptly investigated in a full and fair manner. The vice president for human resources, serving as the college's affirmative action officer, is ultimately responsible for ensuring resolution of any sexual harassment complaints.~~

~~Anyone who is found to have violated this policy is subject to the normal and applicable disciplinary procedures of the college.)~~

(12) Weapons: Carrying, exhibiting, displaying or drawing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

(13) Computers - misuse of technology: Use of college computers and/or computer programs for any purpose other than legitimate college business.

(14) Other violations: Students may be accountable to both civil authorities and to the college for acts which constitute violations of federal, state, or local law as well as college rules and policy. The college may refer any such violation to civilian authorities for disposition.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-100 ((Initial)) Disciplinary proceedings.** (1) Initiation of disciplinary action. ~~((Anyone may report, orally or in writing, violations to the vice president for student services, or designee, who may initiate disciplinary action.))~~ Alleged violations shall be reported in writing to the

vice-president for student services within ten calendar days of occurrence.

(2) Notice requirements. Any student charged with ~~((a))~~ an alleged violation shall receive written notice from the office of the vice-president for student services delivered to the student personally or by registered or certified mail to the student's last known address no later than two weeks after a reported violation. The notice shall not be ineffective if presented later due to student's absence. ~~((Such))~~ The notice to the accused student shall:

(a) Inform the student ~~((that a report has been filed alleging that the student violated specific provisions of college policy and the date of the violation))~~ what provision(s) of the student code he/she is charged with allegedly violating; and

(b) ~~((Set forth those provisions allegedly violated; and (e)))~~ Specify the exact time and date the student is required to meet with the vice-president for student services; and

~~((d) Specify the exact time, date, and location of the formal hearing with the student judicial board, if one is required; and~~

(e) Inform the student that he/she may question witnesses, that he/she may have anyone appear in his/her behalf to defend him/her, that he/she may have a maximum of three character witnesses appear in his/her behalf; and

~~((f))~~ (c) Inform the student that failure to appear at ~~((either of))~~ the appointed time ~~((s at))~~ to meet with the vice-president for student services ~~((office or at the hearing))~~ may subject the student to suspension from the institution for a stated or indefinite period of time.

(3) Meeting with the vice-president for student services.

(a) At the meeting with the vice-president for student services the student shall be informed of the provision of the code of student rights and responsibilities that are involved, and that the student may appeal any sanction imposed by the vice-president for student services ~~((and that if a hearing with the student judicial board is required the student may have that hearing open to the public))~~ as outlined in WAC 132X-60-110.

(b) After considering the evidence in the case and, as appropriate, interviewing the student or students involved, the vice-president for student services may take any of the following actions:

(i) Terminate the proceedings exonerating the student or students; or

(ii) Impose disciplinary sanctions as provided for in WAC 132X-60-120; or

(iii) Refer the matter to the student judicial board for appropriate action.

(c) A student accused of violating any provision of college policy shall be given immediate notification of any disciplinary action taken by the vice-president for student services.

(d) No disciplinary action taken by the vice-president for student services is final unless the student fails to exercise the right of appeal as provided for in these rules.

(4) Student judicial board.

(a) Composition. The college shall have a standing student judicial board composed of nine members, who shall be chosen and appointed to serve as a standing committee until

their successors are appointed. The membership of the board shall consist of three members of the (~~(administration)~~) administrative/exempt staff, excepting the vice-president for student services, appointed by the president; three faculty members appointed by the faculty (~~(organization)~~) senate; and three students appointed by the associated students of South Puget Sound Community College (~~(senate)~~) president. Any student entitled to a hearing before the student judicial board shall choose, in writing, five members of the board to hear and decide the appeal or disciplinary case, provided, the student must choose at least one student, one faculty member and one (~~(member of the administration)~~) administrative/exempt staff from the nine member board. In the event that unforeseen circumstances prevent a previously selected board member from attending the hearing, the student must choose a replacement from among the balance of the standing committee.

(b) Disciplinary hearing procedures.

(i) The five members of the student judicial board will hear, (~~(de novo)~~) anew, all disciplinary cases appealed to the committee by the student or referred to it by the vice-president for student services.

(ii) The five members of the student judicial board shall elect from among themselves a chairperson for the purpose of presiding at the disciplinary hearing. The chairperson shall only vote in case of a tie.

(iii) At least seven calendar days in advance, the student shall be given written notice of the time, date, and location of the hearing; the specific charges against him/her; and shall be accorded reasonable access to the case file, which includes a list of witnesses who will appear or provide written testimony and a summary of the description of any document or other physical evidence that will be presented by the college at the hearing. The case file will be retained by the vice-president for student services.

(iv) (~~(Hearings will be closed to the public except for the vice-president for student services and/or designee, immediate members of the student's family, and the student's representative. An open hearing may be held, in the discretion of the chairperson, if requested by the student. All parties, the witnesses, and the public shall be excluded during the student judicial board's deliberations.)~~) Student judicial board hearings shall be held in closed session. The complainant, accused student, and their representatives/advocates, if any, shall be allowed to attend the entire portion of the student judicial board hearing, excluding deliberation, at which information is presented. Admission of any other person to the student judicial board hearing shall be at the discretion of the student judicial board chairperson.

(v) The chairperson shall exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses. Any person, including the accused student, who disrupts a hearing or who fails to adhere to the rulings of the chairperson or committee advisor may be excluded from the proceedings and may be subject to disciplinary action as set forth in this policy.

(vi) (~~(The student may question witnesses, bring an advocate to defend him/her, and have a maximum of three character witnesses appear on his/her behalf.)~~) The accused student has the right to be assisted by any person they choose,

at their own expense. The chosen person is not permitted to speak or participate directly in any hearing before the judicial body. If the accused student chooses a licensed attorney in the state of Washington, s/he must notify the vice-president for student services at least seven calendar days prior to the hearing.

(vii) (~~(The burden of proof shall be on the vice-president for student services who must establish the guilt of the student by a preponderance of the evidence.)~~) The complainant, vice-president for student services and/or the student judicial board may arrange for witnesses to present pertinent information to the student judicial board. Witnesses will provide information to and answer questions from the student judicial board.

(viii) Formal rules of evidence and procedure shall not be applicable in disciplinary proceedings conducted pursuant to this code. (~~(The chairperson shall admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.)~~) Pertinent records, exhibits, and written statements may be accepted as information for consideration by the student judicial board at the discretion of the chairperson. All procedural questions are subject to the final decision of the chairperson of the student judicial board.

(ix) The vice-president for student services may appoint a special presiding officer to the student judicial board in complex cases or in any case in which the respondent is represented by legal counsel. Special presiding officers may participate in committee deliberations but shall not vote.

(x) (~~(In order that a complete record of the proceeding, including all evidence presented, can be made, hearings may be tape-recorded or transcribed. If a recording or a transcription is not made, the decision of the student judicial board must include a summary of the testimony and shall be sufficiently detailed to permit appellate review.~~)

(~~(xi)~~) There shall be a single verbatim record, such as a tape recording, of all student judicial board hearings, excluding deliberations. The record shall be the property of the college.

(c) Hearing conclusions. After considering the evidence in the case and interviewing the student or students involved, the student judicial board shall decide by majority vote whether to:

(~~(A)~~) (i) Terminate the proceedings exonerating the student(s); or

(~~(B)~~) (ii) Impose disciplinary sanctions as provided in WAC 132X-60-120.

(~~(xii)~~) (iii) Final decisions of the student judicial board (~~(, including findings of fact or reasons for the decision,)~~) shall be delivered to the student personally or by registered or certified mail to the student's last known address and a copy filed with the office of the vice-president for student services.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-110 Appeals of disciplinary action.**  
(~~(+)~~) Appeals of disciplinary action(s) shall be (~~(taken)~~)

made in writing to the vice-president for student services within ten calendar days after receiving notification of the disciplinary action. Such appeals will be made in the following order:

~~((a))~~ (1) Disciplinary action taken by or at the recommendation of the vice-president for student services or designated representative may be appealed to the student judicial board.

~~((b))~~ (2) Disciplinary decisions and action taken by the student judicial board may be appealed by the student to the president. The president shall review the record of the hearing, and may afford each party the opportunity to present written and/or oral argument. The president's decision shall be final.

~~((2) All appeals by a student must be made in writing to the vice-president for student services within ten calendar days after the student has been notified of the action from which he/she has a right of appeal to the student judicial board or the president.)~~

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-120 Disciplinary sanctions.** The following sanctions may be imposed by the vice-president for student services and/or the student judicial board upon any student, group, or organization found to have violated the Code of Student Rights and Responsibilities:

(1) Warning. Notice to a student, either verbally or in writing, that the student has been in violation of college rules or regulations or has otherwise failed to meet the college's standards of conduct. Such warnings will include the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary ~~((actions))~~ sanctions described below.

(2) Reprimand. Formal action censuring a student for violation of the college rules or regulations or has otherwise failed to meet the college's standards of conduct. Reprimands shall be made in writing to the student ~~((as appropriate by the vice-president for student services or the student judicial board))~~ with copies filed in the office of the ~~((dean of students))~~ vice-president for student services. A reprimand will include the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(3) Fines. ~~((The vice-president for student services and/or the student judicial board may))~~ Assess monetary fines up to a maximum of one hundred dollars per violation against individual students for violation of college rules and regulations or for the failure to meet the college's standards of conduct. Failure to pay such fines within thirty days will result in suspension for an indefinite period of time as set forth in subsection (6) of this section, provided that a student may be reinstated upon payment of the fine.

(4) Restitution. An individual student may be required to make restitution for damage or loss to college or other property and for injury to persons. Failure to make restitution within thirty days will result in suspension for an indefinite

period of time as set forth in subsection (6) of this section, provided that a student may be reinstated upon payment.

(5) Disciplinary probation. Formal action placing conditions upon the student's continued attendance for violations of college rules or regulations or other failure to meet the college standards of conduct. Written notice of disciplinary probation will specify the period of probation and any condition, such as limiting the student's participation in extracurricular activities or access to specific areas of the college's facilities. Copies of the notice shall be kept on file in the office of the vice-president for student services ~~((and in the student's official educational records))~~. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(6) Suspension/dismissal. Temporary, indefinite, or permanent dismissal from the college of a student for violation of college rules and regulations. The notification suspending a student will indicate, in writing, the term of the suspension and any special conditions which must be met before readmission. Copies of the notification shall be kept on file in the office of the vice-president for student services and in the student's official education record.

~~((Refund of fees for the quarter in which disciplinary action is taken shall be in accord with the college's refund policy.))~~

Students who are suspended from the college may be denied access to all or any part of the campus or other facility during the duration of the period of suspension.

Refund of fees for the quarter in which disciplinary action is taken shall be in accordance with the college's refund policy.

(7) Withholding transcripts and/or degree. The college may withhold issuing transcripts or awarding a degree otherwise earned until completion of the procedures set forth in this Code of Student Rights and Responsibilities, including the completion of all sanctions imposed.

(8) More than one of the sanctions listed above may be imposed for any single violation.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-130 Readmission after suspension/dismissal.** If the student has been suspended/dismissed for an indefinite period, or feels that circumstances warrant reconsideration of the ~~((temporary))~~ suspension/dismissal prior to its expiration, the student may be readmitted following approval of a written petition submitted to the vice-president for student services. Such petitions must state reasons, including appropriate documentation which support a reconsideration of the matter. The vice-president for student services will respond in writing within ten calendar days of receiving the written petition for readmission.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-140 Summary suspension procedures.** (1) Initiation of summary suspension procedures. The vice-president for student services, or designee, may suspend



any student of the college for not more than ten academic calendar days pending investigation, action or ~~((prosecution on charges))~~ initiating disciplinary proceedings of alleged violation or violations of college policy, if the vice-president for student services has reason to believe the student's physical or emotional safety and well-being, or the safety and well-being of other college community members, or the safety and well-being of the college property requires such suspension.

(2) Permission to enter or remain on campus. During the period of summary suspension, the suspended student shall not enter the campus of the college or any facility under the operation of the college other than to meet with the vice-president for student services or to attend the disciplinary hearing. However, the vice-president for student services may grant the student special permission to enter a campus for the express purpose of meeting with faculty, staff, or students in preparation for the disciplinary hearing.

(3) Notice of summary suspension proceedings.

(a) If the vice-president for student services or designee finds it necessary to exercise the authority to summarily suspend a student, he/she shall give the student notice, orally or in writing, stating: The time, date, place, and nature of the alleged ~~((misconduct))~~ code violation; the evidence in support of the charge(s); the corrective action or punishment which may be imposed against the student; that anything the student says to the vice-president may be used against the student; and that the student may either accept the disciplinary action or, within forty-eight hours or two work days following receipt of this notification, file at the office of the vice-president for student services, a written request for a hearing by the student judicial board. If the request is not filed within the prescribed time, it will be deemed as waived.

(b) Appeal and disciplinary hearing. If oral notice is given, it shall be followed by written notice within forty-eight hours or two working days. The hearing shall be accomplished according to the procedures set forth in WAC 132X-60-100. Failure by the student to appear at the hearing with the student judicial board shall result in the vice-president for student services or designee suspending the student from the college.

~~((e))~~ (4) Classroom summary suspension.

(a) Nothing herein shall prevent faculty members from taking reasonable summary action as may be reasonably necessary to maintain order when they have reason to believe that such action is necessary for the physical safety and well-being of the student, or the safety and protection of other students or of college property or where the student's conduct materially and substantially disrupts the educational process.

(b) Such summary action in the form of removal from the classroom shall be effective for a period not to exceed ~~((two))~~ three scheduled classroom days. Any summary action may be appealed by the student to the vice-president for student services ~~((for an informal hearing))~~.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-150 Emergency procedures.** In the event of activities which interfere with the orderly operation of the college, the vice-president for student services or the

president, or their designees shall determine the course of action which appears to offer the best possibility for resolution of the problem. The emergency procedures outlined below will be followed if deemed essential:

(1) Inform those involved in such activities that they are in violation of college and/or civil regulations.

(2) Inform them that they should cease and desist. Indicate an area on campus where they are able to conduct their activities without interfering with the operation of the college, if such an area is available.

(3) If they do not respond within a reasonable time, call ~~((the civil authorities))~~ campus security.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-160 Athletics—Grounds for ineligibility.** Any student found to have violated chapter 69.41 RCW, which prohibits the unlawful sale, delivery or possession of prescription drugs, shall, after hearing, be disqualified from participation in any college-sponsored athletic events or activities.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-170 Initiation of athletic ineligibility proceedings.** The vice-president for student services or his or her designee shall have the authority to request commencement of athletic ineligibility proceedings whenever he or she has reasonable cause to believe that the student has violated chapter 69.41 RCW or has been advised that the student has been convicted of a crime involving the violation of chapter 69.41 RCW. The notice of the alleged violations and proposed suspension and the opportunity for a brief adjudicative proceeding hearing shall be given the student at least ten calendar days before the hearing. A student convicted of violating chapter 69.41 RCW in a separate criminal proceeding may be given by the vice-president for student services or his or her designee an interim suspension pending final determination of any administrative proceeding held under ~~((these rules))~~ brief adjudicative proceeding. Should the student desire not to go forward with the hearing, the disqualification for participation in athletic events or activities shall be imposed as set forth in the notice of hearing to the student.

AMENDATORY SECTION (Amending WSR 00-05-023, filed 2/8/00, effective 3/10/00)

**WAC 132X-60-180 Athletic ineligibility—Brief adjudicative proceedings.** (1) The president of the college or his or her designee shall select a presiding officer who shall be a college officer, who is not involved with the athletic program, to conduct the brief adjudicative hearing in accordance with the Administrative Procedure Act, RCW 34.05.482 through 34.05.494.

(2) Before taking action, the presiding officer shall promptly conduct the hearing and permit the affected parties to explain both the college's view of the matter and the student's view of the matter. ~~((The brief adjudicative proceeding shall be conducted in accordance with the Administrative~~

Procedure Act, RCW 34.05.482 through 34.05.494. A written decision shall be issued within ten calendar days of the conclusion of the brief adjudicative hearing.)

(3) At the time any unfavorable action is taken the presiding officer shall serve upon each student a brief statement of the reasons for the decision. Within ten days, the presiding officer shall give the student a brief written statement of the reasons for the decision and information about any internal administrative review available.

(4) The brief written statement is an initial order. If no administrative review is taken of the initial order, the initial order shall be the final order.

(5) Administrative review. Unless prohibited by any provision of law, the college may conduct administrative review of an order resulting from brief adjudicative proceedings. The reviewing officer may be any person who could have presided at the brief proceeding, but the reviewing officer must be one who is authorized to grant appropriate relief upon review.

The college shall conduct this review upon the written or oral request of a party if the college receives the request within twenty-one days after service of the written statement. A request for administrative review is deemed to have been denied if the college does not make a disposition of the matter within twenty days after the request is submitted.

The college may review an order without notice to the student, but it may not take any action on review less favorable to the student than the original order without giving that student notice and an opportunity to explain that student's view of the matter.

The reviewing officer shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing. The college shall maintain all documents, considered or prepared for the brief adjudicative proceeding or administrative review, as its official record.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 132X-60-075 Commercial and promotional activities.
- WAC 132X-60-178 Noncollege speaker policy.

**WSR 09-18-117  
PROPOSED RULES  
DEPARTMENT OF COMMERCE**

[Filed September 2, 2009, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-13-076.

Title of Rule and Other Identifying Information: Update to WAC 365-180-030 Definitions and 365-180-070 Sponsor requirements.

Hearing Location(s): GA Auditorium, 210 11th Avenue S.W., Olympia, WA 98501, on October 6, 2009, at 10:00 a.m.

Date of Intended Adoption: October 28, 2009.

Submit Written Comments to: Heather Matthews, P.O. Box 42525, e-mail heather.matthews@commerce.wa.gov, fax (360) 586-5880, by October 22, 2009.

Assistance for Persons with Disabilities: Contact Heather Matthews by October 5, 2009, TTY (360) 725-5002.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In the 2009 legislative session, Governor Gregoire signed E2SSB 5649 into law. The effect of this proposal is to clarify that new requirements for employment related to section 202 (3)(e) in E2SSB 5649 relate only to employees who conduct weatherization activities, including any sponsor employees or local agency staff and contractors. In addition, the proposal defines terms in E2SSB 5649 to assist with smooth program implementation.

Reasons Supporting Proposal: Enhance efficiency of program by providing additional clarity to E2SSB 5649.

Statutory Authority for Adoption: RCW 70.164.040.

Statute Being Implemented: RCW 70.164.040.

Name of Proponent: Department of commerce, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve Payne, 906 Columbia Street S.W., Olympia, WA 98504-2525, (360) 725-2950.

No small business economic impact statement has been prepared under chapter 19.85 RCW. According to the Washington state attorney general's office, any economic impact to small businesses is due to E2SSB 5649, not this rule. If anything, the rule would operate to reduce impact, since it interprets the applicability of the statute as limited to direct weatherization hires.

A cost-benefit analysis is not required under RCW 34.05.328. The department of commerce is not included in the list of departments in RCW 34.05.328 (5)(a) required to conduct a cost-benefit analysis.

September 1, 2009

Marie Sullivan

Director of Government Relations

AMENDATORY SECTION (Amending Order 92-01, filed 1/7/92, effective 2/7/92)

**WAC 365-180-030 Definitions.** (1) "Community" means the local program area served by the weatherizing agency.

(2) "Department" means the department of community development.

((2)) (3) "Energy matchmakers local coordinated plan" means a proposal(s) for use of funding for local low-income weatherization programs in a specific geographical area.

((3)) (4) "Family wage job" is defined as a job that pays, as a minimum, prevailing wage.

(5) "Low-income" means ((household income that is at or below one hundred twenty-five percent of the federally established poverty level)) households at or below eighty percent of the state area median income. However, priority will

be given to households at or below one hundred twenty-five percent of the federally established poverty level.

~~((4))~~ (6) "Nonutility sponsor" means an organization that is not an energy supplier and that submits a local coordinated plan.

~~((5))~~ (7) "Residence" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters; but excluding institutional buildings such as: A university, group care facility, nursing home, half-way residence, hospital, hotel, motel, etc.

~~((6))~~ (8) "Sponsor" means an organization that submits a match proposal as part of the energy matchmakers local coordinated plan.

~~((7))~~ (9) "Sponsor match" means the share, if any, of the cost of weatherization to be paid by the sponsor.

~~((8))~~ (10) "Weatherization" means materials or measures, including the education of the low-income household about energy saving behaviors in the home, and their installation or application, that are used to improve the thermal efficiency of a residence.

~~((9))~~ (11) "Weatherizing agency" means a public or nonprofit private organization, approved by the department, responsible for doing all aspects of the weatherization work.

AMENDATORY SECTION (Amending Order 88-01, filed 1/4/88)

**WAC 365-180-070 Local coordinated plan—Funding proposal process—Award of contracts.** (1) A sponsor shall make a formal proposal using forms issued by the department.

(2) The employment requirements of RCW 70.164.040 (3)(e), apply only to individuals hired specifically to repair homes prior to weatherization, and to construct or install weatherization materials in low-income residences.

(3) A review team will evaluate the energy matchmakers local coordinated plans, and will be composed of persons with knowledge of energy conservation and of community-based public and private service organizations.

~~((3))~~ (4) Plans which include a commitment of matching resources will be given priority for funding.

~~((4))~~ (5) The department shall have the final discretion to award funds.

~~((5))~~ (6) The department will enter into a contract with weatherizing agencies identified in successful local coordinated plans. This contract shall be signed by an official with authority to bind the weatherizing agency and returned to the department prior to the release of any funds under this program.

**WSR 09-18-118**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed September 2, 2009, 9:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-14-071.

Title of Rule and Other Identifying Information: The department intends to amend WAC 388-76-10025 License annual fee and 388-76-10070 Application—Fee required. The department intends to add one new section WAC 388-76-10073 Application—Processing fees required.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on October 6, 2009, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 7, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 6, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by September 22, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Recently enacted 2SHB 1935 increased the application processing and yearly license fees for adult family home applicants and providers. The new fees had to be implemented by July 26, 2009, via emergency. The impact of the proposed rule is to make the rule clearer, easier to read, understand, and apply.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapter 70.128 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Maureen Lally, P.O. Box 45600, Olympia, WA 98513, (360) 725-3204; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. We are not required under RCW 19.85.025(3) to prepare a small business economic impact statement for rules adopting or incorporating Washington state statutes.

A cost-benefit analysis is not required under RCW 34.05.328. We are not required under RCW 34.05.328 (5)(b) to prepare a cost-benefit analysis since the proposed significant legislative rules adopt or incorporate, by reference without material change, Washington state statutes.

August 28, 2009

Stephanie E. Vaughn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10025 License annual fee.** (1) The adult family home must pay an annual license fee ((is fifty dollars per adult family home per year)) as required in chapter 70.128 RCW.

(2) The home must send the annual license fee to the department upon receipt of notice of fee due.

~~((3) If the department does not renew the license, the annual license fee is refundable.))~~

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10070 Application—Fees required.** (1) The applicant must ~~((send a one hundred dollar fee with the application form:~~

~~(a) Fifty dollars of this fee is the application processing fee; and~~

~~(b) Fifty dollars is the annual license fee)) pay all processing and license fees established by chapter 70.128 RCW.~~

(2) The applicant must submit the required fees with the application form.

(3) The processing fee will be returned as required by chapter 70.128 RCW.

(4) The ((fifty dollar annual)) license fee will be returned to the applicant ((by the department)) if the application is withdrawn, voided or the license is denied.

#### NEW SECTION

**WAC 388-76-10073 Application—Processing fees required.** The processing fee, required in chapter 70.128 RCW, applies to any application submitted to the department, including but not limited to an application for initial licensure, change of ownership, or a change of location.

#### WSR 09-18-121

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed September 2, 2009, 10:38 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-039.

Title of Rule and Other Identifying Information: The following sections of the Washington Administrative Code are to be repealed, WAC 246-976-485 Designation of facilities to provide trauma care services, 246-976-490 Suspension or revocation of designation, 246-976-530 Trauma service designation—Administration and organization, 246-976-535 Trauma service designation—Basic resources and capabilities, 246-976-540 Trauma service designation—Outreach, public education, provider education, and research, 246-976-620 Equipment standards for trauma service designation, 246-976-750 Pediatric trauma service designation—Administration and organization, 246-976-755 Pediatric trauma service designation—Basic resources and capabilities, 246-976-760 Pediatric trauma service designation—Outreach, public

education, provider education, and research, 246-976-830 Designation standards for facilities providing level I trauma rehabilitation service, 246-976-840 Designation standards for facilities providing level II trauma rehabilitation service, 246-976-850 Designation standards for level III trauma rehabilitation service, 246-976-860 Designation standards for facilities providing level I pediatric trauma rehabilitation service, 246-976-870 Trauma team activation, 246-976-881 Trauma quality improvement programs for designated trauma care services, 246-976-885 Educational requirements—Designated trauma care service personnel, 246-976-886 Pediatric education requirements (PER) for nonpediatric designated facilities, and 246-976-887 Pediatric education requirements (PER) for pediatric designated facilities.

The following sections of the Washington Administrative Code are added, WAC 246-976-580 Trauma designation process, 246-976-700 Trauma service standards, and 246-976-800 Trauma rehabilitation service standards.

These sections establish the department's responsibilities for statewide trauma service designation and establish rehabilitation standards for adult and pediatric services and trauma rehabilitation services.

Hearing Location(s): Department of Health, Point Plaza East Building, Conference Rooms 152 and 153, 310 Israel Road S.E., Tumwater, WA 98501, on October 9, 2009, at 1:00 p.m.

Date of Intended Adoption: October 15, 2009.

Submit Written Comments to: Kathy Schmitt, Department of Health, P.O. Box 47853, Olympia, WA 98504-7853, kathy.schmitt@doh.wa.gov, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2830, by October 1, 2009.

Assistance for Persons with Disabilities: Contact Kathy Schmitt by September 29, 2009, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to repeal and add new sections to trauma service designation rules to (1) update rules to reflect current best practice and standard of care; (2) include strategic plan objectives identified by the governor's steering committee for emergency medical services and trauma system; (3) provide better readability and organization of rules for stakeholders and the public by repealing sections and incorporating current standards with amendments into new, proposed sections.

Reasons Supporting Proposal: RCW 70.168.060 authorizes the department to establish, update and maintain minimum standards for levels I, II, III, IV and V trauma care services and ensure designation of hospitals and health care facilities in order to provide trauma services per the statewide emergency medical service and trauma care plan. Reasons are (1) add current best practice and standard of care; (2) add strategic plan objectives identified by the governor's steering committee for emergency medical services and trauma system; (3) increase the department's ability to ensure quality improvement of trauma care services.

Statutory Authority for Adoption: RCW 70.168.050, 70.168.060, 70.168.070.

Statute Being Implemented: RCW 70.168.060 and 70.168.070.

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

Name of Proponent: Department of health, health systems quality assurance, office of community health systems, governmental.

Name of Agency Personnel Responsible for Drafting: Kathy Schmitt, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2869; Implementation and Enforcement: Michael Lopez, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-2841.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Schmitt, Department of Health, P.O. Box 47853, Olympia, WA 98504-7853, phone (360) 236-2869, fax (360) 236-2830, e-mail kathy.schmitt@doh.wa.gov.

September 2, 2009  
Mary C. Selecky  
Secretary

#### NEW SECTION

**WAC 246-976-580 Trauma designation process.** The department designates hospitals and other health care facilities to provide adult and pediatric acute care trauma services ("trauma services") and adult and pediatric trauma rehabilitation services (also "trauma services") as part of the statewide emergency medical services and trauma care (EMS/TC) system. This section describes the designation process.

(1) The department must:

(a) Provide written notification to all licensed hospitals and to other health care facilities that a new designation period is beginning. The written notification and the EMS/TC regional plans are posted on the department's web site;

(b) Provide a trauma designation application schedule outlining the steps and timeline requirements for a facility to apply for trauma service designation. The schedule must provide each facility at least ninety days to complete an application for trauma designation. The application schedule is posted on the department's web site;

(c) Provide an application for each level, type and combination of designation. Designation applications are released region by region, according to the established schedule;

(d) Conduct a site review for any hospital applying for level I, II, or III adult and/or pediatric trauma designation to determine compliance with required standards;

(e) Initiate a three-year contract with successful applicants to authorize participation in the trauma system.

(2) To apply for trauma service designation the health care facility must do the following according to the application schedule:

(a) Request an application;

(b) Submit a letter of intent to apply for trauma service designation and at what level;

(c) Submit a completed application(s);

(d) For facilities applying for level I, II, III adult and/or pediatric designation, the facility must complete a site review

arranged and conducted by the department according to the following process:

(i) The department will contract with trauma surgeons and trauma nurses to conduct the site review. The review team members must:

(A) Work outside the state, for level I and II site reviews;

(B) Work outside the applicant's EMS&TC region, for level III site reviews;

(C) Maintain the confidentiality of all documents examined, in accordance with RCW 70.41.200 and 70.168.070. This includes, but is not limited to, all trauma patient data, staff discussions, patient, provider, and facility care outcomes, and any reports resulting from the site review;

(D) Present their preliminary findings to the health care facility at the end of the site review visit;

(ii) The department will provide the applicant the names of review team members prior to the site review. Any objections must be sent to the department within ten days of receiving the department's notification of review team members;

(iii) A site review fee, as established in WAC 246-976-990, is charged and must be paid by the health care facility prior to the site review. A standard fee schedule is posted on the department's web site. For facilities applying for more than one type of designation or for joint designation, fee rates can be obtained by contacting the department;

(iv) The applicant must provide the department and the site review team full access to the facility, facility staff, and all records and documents concerning trauma care including trauma patient data, education, training and credentialing documentation, standards of care, policies, procedures, protocols, call schedules, medical records, quality improvement materials, receiving facility patient feedback, and other relevant documents;

(e) For hospitals or health care facilities applying for level IV or V designation, level I, II, or III rehabilitation designation or level I pediatric rehabilitation designation, the department may, at its discretion, conduct a site review as part of the application process to determine compliance with required standards. If a site review is conducted, the process will be the same as identified in (d) of this subsection, except a site review fee will not be charged.

(3) The department will designate the health care facilities it considers most qualified to provide trauma care services including when there is competition for trauma service designation within a region. There is competition for designation within a region when the number of applications for a level and type of designation is more than the maximum number of trauma services identified in the approved EMS/TC regional plan. The department will evaluate the following in making its decisions:

(a) The quality of the health care facility's performance, based on:

(i) The submitted application, attachments and any other information the department requests from the facility to verify compliance with trauma standards;

(ii) Recommendations from the site review team;

(iii) Trauma patient outcomes during the previous designation period;

(iv) Compliance with the contract during the previous designation period;

(b) The health care facility's conformity with the EMS/TC regional and state plans, based on:

(i) The impact of the facility's designation on the effectiveness of the trauma system;

(ii) Patient volumes for the area;

(iii) The number, level, and distribution of trauma services identified in the state and approved regional plans;

(iv) The facility's ability to comply with state and regional EMS/TC plan goals.

(4) After trauma service designation decisions are made in a region, the department will:

(a) Notify each applicant in writing of the department's designation decision;

(b) Send each applicant a written report summarizing the department's findings, recommendations and additional requirements to maintain designation. If a site review was conducted as part of the application process, the review team findings and recommendations are also included in the written report. Reports are sent:

(i) Within sixty days of announcing designation decisions for level IV and V trauma services and trauma rehabilitation services;

(ii) Within one hundred twenty days of the site review for level I, II and III adult and pediatric trauma services and any other facility that received a site review as part of the application process;

(c) Notify the EMS/TC regional council of designation decisions within the region and all subsequent changes in designation status;

(d) Initiate a trauma designation contract with successful applicants. The contract will include:

(i) Authority from the department to participate in the state trauma system, receive trauma patients from EMS agencies, and provide trauma care services for a three-year period;

(ii) The contractual and financial requirements and responsibilities of the department and the trauma service;

(iii) A provision to allow the department to monitor compliance with trauma service standards;

(iv) A provision to allow the department to have full access to trauma patient data; the facility, equipment, staff and their credentials, education, and training documentation, and all trauma care documents such as: Standards of care, policies, procedures, protocols, call schedules, medical records, quality improvement documents, receiving facility patient feedback, and other relevant documents;

(v) The requirement to maintain confidentiality of information relating to individual patient's, provider's and facility's care outcomes pursuant to RCW 70.41.200 and 70.168-070;

(e) Notify the designated trauma service and other interested parties in the region of the next trauma designation application process at least one hundred fifty days before the contract expires.

(5) Designated trauma services may ask the department to conduct a site review for technical assistance at any time during the designation period. The department has the right to require reimbursement for the costs of conducting the site review.

(6) The department will not approve an application for trauma service designation if the applicant:

(a) Is not the most qualified, when there is competition for designation; or

(b) Does not meet the trauma care standards for the level applied for; or

(c) Does not meet the requirements of the approved EMS/TC regional plan; or

(d) Has made a false statement about a material fact in its designation application; or

(e) Refuses to permit the department to examine any part of the facility that relates to the delivery of trauma care services, including, but not limited to, records, documentation, or files.

(7) If the department denies an application, the department will send the facility a written notice to explain the reasons for denial and to explain the facility's right to appeal the department's decision in accordance with chapters 34.05 RCW and 246-10 WAC.

(8) To ensure adequate trauma care in the state, the department may:

(a) Provisionally designate hospitals and other health care facilities that are not able to meet all the requirements of this chapter. The provisional designation will not be for more than two years. A department-approved plan of correction must be prepared specifying steps necessary to bring the facility into compliance and an expected date of compliance. The department may conduct a site review to verify compliance with required standards. If a site review is conducted the department has the right to require reimbursement for the cost of conducting the site review;

(b) Consider additional applications at any time, regardless of the established schedule, if necessary to attain the numbers and levels of trauma services identified in the approved EMS/TC regional and state plan;

(c) Consider applications from hospitals located and licensed in adjacent states. The department will evaluate an out-of-state application in the same manner as all other applications. However, if the out-of-state applicant is designated as a trauma service in an adjacent state with an established trauma system whose standards meet or exceed Washington's standards and there is no competition for designation at that level, then the department may use the administrative findings, conclusions, and decisions of the adjacent state's designation evaluation to make the decision to designate. Additional information may be requested by the department to make a final decision.

(9) The department may suspend or revoke a trauma designation if the facility and/or any owner, officer, director, or managing employee:

(a) Is substantially out of compliance with trauma care standards WAC 246-976-700 through 246-976-800 or chapter 70.168 RCW and has refused or is unwilling to comply after a reasonable period of time;

(b) Makes a false statement of a material fact in the designation application, or in any document required or requested by the department, or in a matter under investigation;

(c) Prevents, interferes with, or attempts to impede in any way, the work of a department representative in the law-

ful enforcement of chapter 246-976 WAC, 34.05 RCW, 246-10 WAC, or 70.168 RCW;

(d) Uses false, fraudulent, or misleading advertising, or makes any public claims regarding the facility's ability to care for nontrauma patients based on its trauma designation status;

(e) Misrepresents or is fraudulent in any aspect of conducting business.

(10) The Administrative Procedure Act, chapter 34.05 RCW, and chapter 246-10 WAC govern the suspension and revocation process. The department will use the following process to suspend or revoke a facility's trauma designation:

(a) The department will send the facility a written notice to explain the reasons it intends to suspend or revoke the designation and to explain the facility's right to a hearing to contest the department's intended action pursuant to WAC 246-10-201 through 246-10-205;

(b) The notice will be sent at least twenty-eight days before the department takes action, unless it is a summary suspension, as provided for in the Administrative Procedure Act and WAC 246-10-301 through 246-10-306;

(c) If a facility requests a hearing within twenty-eight days of the date the notice was mailed, a hearing before a health law judge will be scheduled. If the department does not receive the facility's request for a hearing within twenty-eight days of the date the notice was mailed, the facility will be considered in default pursuant to WAC 246-10-204;

(d) For nonsummary suspensions, in addition to its request for a hearing, the facility may submit a plan within twenty-eight days of receiving the notice of the department's intent to suspend, describing how it will correct deficiencies:

(i) The department will approve or disapprove the plan within thirty days of receipt;

(ii) If the department approves the plan, the facility must begin to implement it within thirty days;

(iii) The facility must notify the department when the problems are corrected;

(iv) If, prior to sixty days before the scheduled hearing, the facility is able to successfully demonstrate to the department that it is meeting the requirements of chapters 246-976 WAC and 70.168 RCW, which may require a site review at the facility's expense, the department will withdraw its notice of intent to suspend designation;

(e) The department will notify the regional EMS&TC council of the actions it has taken.

(11) A facility may seek judicial review of the department's final decision pursuant to the Administrative Procedure Act, RCW 34.05.510 through 34.05.598.

(12) A newly designated or upgraded trauma service must meet education requirements for all applicable personnel according to the following schedule:

(a) At the time of the new designation, twenty-five percent of all personnel must meet the education and training requirements in WAC 246-976-700 through 246-976-800;

(b) At the end of the first year of designation, fifty percent of all personnel must meet the education and training requirements in WAC 246-976-700 through 246-976-800;

(c) At the end of the second year of designation, seventy-five percent of all personnel must meet the education and training requirements defined in WAC 246-976-700 through 246-976-800;

(d) At the end of the third year of designation, and all subsequent designation periods, ninety percent of all personnel must meet the education and training requirements defined in WAC 246-976-700 through 246-976-800.

(13) All currently designated trauma services must have a written education plan with a process for tracking and assuring that new physicians and staff meet all trauma education requirements within the first eighteen months of employment.

**NEW SECTION**

**WAC 246-976-700 Trauma service standards.**

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>	X	X	X	X	X	X	X	X
(1) A written trauma scope of service outlining the trauma care resources and capabilities available twenty-four hours every day for:								
(a) Adult and pediatric trauma patient care;	X	X	X	X	X			
(b) Pediatric trauma patient care.						X	X	X
(2) A trauma medical director responsible for the organization and direction of the trauma service, who:	X	X	X	X	X			
(a) Is a board-certified general surgeon;	X	X						
(b) Is a board-certified general surgeon, <b>or</b> a general surgeon advanced cardiac life support (ACLS) trained with current certification in advanced trauma life support (ATLS);			X					
(c) Is a board-certified general surgeon or emergency physician, <b>or</b> a general surgeon ACLS trained with current certification in ATLS <b>or</b> a physician ACLS trained with current certification in ATLS;				X				

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(d) Is a board-certified general surgeon or emergency physician, <b>or</b> a physician ACLS trained with current certification in ATLS, <b>or</b> a physician assistant or advanced registered nurse practitioner ACLS trained and who audits ATLS every four years;					X			
(e) Is a board-certified pediatric surgeon, <b>or</b> a board-certified general surgeon, with special competence in the care of pediatric patients;						X	X	
(f) Is a board-certified general surgeon, with special competence in the care of pediatric patients, <b>or</b> a general surgeon ACLS trained, with current certification in ATLS and with special competence in the care of pediatric patients;								X
(g) Meets the pediatric education requirement (PER) as defined in subsection (27) of this section.	X	X	X	X	X	X	X	X
(3) A trauma program manager or trauma service coordinator responsible for the overall operation of trauma service, who:	X	X	X	X	X	X	X	X
(a) Is a registered nurse;	X	X	X	X	X	X	X	X
(b) Has taken ACLS;	X	X	X	X	X	X	X	X
(c) Has successfully completed a trauma nursing core course (TNCC) or a department approved equivalent course, and thereafter completes twelve hours of trauma-related education every three-year designation period. The trauma education must include, but is not limited to, the following topics:	X	X	X	X	X	X	X	X
(i) Mechanism of injury;	X	X	X	X	X	X	X	X
(ii) Shock and fluid resuscitation;	X	X	X	X	X	X	X	X
(iii) Initial assessment;	X	X	X	X	X	X	X	X
(iv) Stabilization and transport;	X	X	X	X	X	X	X	X
(d) Has taken pediatric advanced life support (PALS) or emergency nursing pediatric course (ENPC), and thereafter meets the PER contact hours as defined in subsection (27) of this section;	X	X	X	X	X			
(e) Has current PALS or ENPC certification;						X	X	X
(f) Has attended a trauma program manager orientation course provided by the department or a department approved equivalent, within the first eighteen months in the role.	X	X	X	X	X	X	X	X
(4) A multidisciplinary trauma quality improvement program that must:	X	X	X	X	X	X	X	X
(a) Be lead by the multidisciplinary trauma service committee with the trauma medical director as chair of the committee;	X	X	X	X	X	X	X	X
(b) Demonstrate a continuous quality improvement process;	X	X	X	X	X	X	X	X
(c) Have membership representation and participation that reflects the facility's trauma scope of service;	X	X	X	X	X	X	X	X
(d) Have an organizational structure that facilitates the process of quality improvement, with a reporting relationship to the hospital's administrative team and medical executive committee;	X	X	X	X	X	X	X	X
(e) Have authority to establish trauma care standards and implement patient care policies, procedures, guidelines, and protocols throughout the hospital;	X	X	X	X	X	X	X	X



WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>	X	X	X	X	X	X	X	X
(f) Have a process to monitor and track compliance with the trauma care standards using audit filters and benchmarks;	X	X	X	X	X	X	X	X
(g) Have a process to evaluate the care provided to trauma patients and to resolve identified prehospital, physician, nursing, or system issues;	X	X	X	X	X	X	X	X
(h) Have a process for correcting problems or deficiencies;	X	X	X	X	X	X	X	X
(i) Have a process to analyze, evaluate, and measure the effect of corrective actions to determine whether issue resolution was achieved;	X	X	X	X	X	X	X	X
(j) Have a process to continuously evaluate compliance with full and modified (if used) trauma team activation criteria;	X	X	X	X	X	X	X	X
(k) Have assurance from other hospital quality improvement committees, including peer review if conducted separately from the trauma committee, that resolution was achieved on trauma-related issues;	X	X	X	X	X	X	X	X
(l) Have a process to ensure the confidentiality of patient and provider information, in accordance with RCW 70.41.200 and 70.168.090;	X	X	X	X	X	X	X	X
(m) Have a process to communicate with, and provide feedback to, referring trauma services and trauma care providers;	X	X	X	X	X	X	X	X
(n) Have a current trauma quality improvement plan that outlines the trauma service's quality improvement process, as defined in this subsection;	X	X	X	X	X	X	X	X
(o) For level III, IV, V, or level III pediatric trauma services with a total annual trauma volume of less than one hundred patients, the trauma service may integrate trauma quality improvement into the hospital's quality improvement program; however, trauma care must be formally addressed in accordance with the quality improvement requirements in this subsection. In that case, the trauma medical director is not required to serve as chair.			X	X	X			X
(5) Written trauma service standards of care to ensure appropriate care throughout the facility for:	X	X	X	X	X	X	X	X
(a) Adult and pediatric trauma patients;	X	X	X	X	X			
(b) Pediatric trauma patients.						X	X	X
(6) Participation in the regional quality improvement program as defined in WAC 246-976-910.	X	X	X	X	X	X	X	X
(7) Participation in the Washington state trauma registry as defined in WAC 246-976-430.	X	X	X	X	X	X	X	X
(8) Written transfer-in guidelines consistent with the facility's designation level and trauma scope of service. The guidelines must identify the type, severity and complexity of injuries the facility can safely accept, admit, and provide with definitive care.	X	X	X	X	X	X	X	X
(9) Written transfer-out guidelines consistent with the facility's designation level and trauma scope of service. The guidelines must identify the type, severity and complexity of injuries that exceed the resources and capabilities of the trauma service.	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(10) Written interfacility transfer agreements with all trauma services that receive the facility's trauma patients. Agreements must have a process to identify medical control during the interfacility transfer, and address the responsibilities of the trauma service, the receiving hospital, and the verified prehospital transport agency. All trauma patients must be transported by a trauma verified prehospital transport agency.	X	X	X	X	X	X	X	X
(11) An air medical transport plan addressing the receipt or transfer of trauma patients with a heli-stop, landing zone, or airport located close enough to permit the facility to receive or transfer trauma patients by fixed-wing or rotary-wing aircraft.	X	X	X	X	X	X	X	X
(12) A written diversion protocol for the emergency department to divert trauma patients from the field to another trauma service when resources are temporarily unavailable. The process must include: (a) Trauma service and patient criteria used to decide when diversion is necessary; (b) How the divert status will be communicated to the nearby trauma services and prehospital agencies; (c) How the diversion will be coordinated with the appropriate prehospital agency; (d) A method of documenting/tracking when the trauma service is on trauma divert, including the date, time, duration, reason, and decision maker.	X	X	X	X	X	X	X	X
(13) A trauma team activation protocol consistent with the facility's trauma scope of service. The protocol must:	X	X	X	X	X	X	X	X
(a) Define the physiologic, anatomic, and mechanism of injury criteria used to activate the full and modified (if used) trauma teams;	X	X	X	X	X	X	X	X
(b) Identify members of the full and modified (if used) trauma teams consistent with the provider requirements of this chapter;	X	X	X	X	X	X	X	X
(c) Define the process to activate the trauma team. The process must:	X	X	X	X	X	X	X	X
(i) Consistently apply the trauma service's established criteria;	X	X	X	X	X	X	X	X
(ii) Use information obtained from prehospital providers or an emergency department assessment for patients not delivered by a prehospital agency;	X	X	X	X	X	X	X	X
(iii) Be applied regardless of time post injury or previous care, whether delivered by prehospital or other means and whether transported from the scene or transferred from another facility;	X	X	X	X	X	X	X	X
(iv) Include a method to upgrade a modified activation to a full activation when newly acquired information warrants additional capabilities and resources;	X	X	X	X	X	X	X	X
(v) For full trauma team activations, include the mandatory presence of a general surgeon. The general surgeon assumes leadership and overall care - using professional judgment regarding the need for surgery and/or transfer;	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(vi) For full trauma team activations, include the mandatory presence of a general surgeon if general surgery services are included in the facility's trauma scope of service. The general surgeon assumes leadership and overall care - using professional judgment regarding the need for surgery and/or transfer;				X				
(vii) For trauma team activations in pediatric designated trauma services (within five minutes for level I, twenty minutes for level II or thirty minutes for level III), one of the following pediatric physician specialists must respond: <ul style="list-style-type: none"> <li>• A pediatric surgeon;</li> <li>• A pediatric emergency medicine physician;</li> <li>• A pediatric intensivist;</li> <li>• A pediatrician;</li> <li>• A postgraduate year two or higher pediatric resident.</li> </ul>						X	X	X
(14) Emergency care services available twenty-four hours every day, with:	X	X	X	X	X	X	X	X
(a) An emergency department (except for level V clinics);	X	X	X	X	X	X	X	X
(b) The ability to resuscitate and stabilize adult and pediatric trauma patients in a designated resuscitation area;	X	X	X	X	X			
(c) The ability to resuscitate and stabilize pediatric trauma patients in a designated resuscitation area;						X	X	X
(d) A medical director, who:	X	X	X			X	X	X
(i) Is board-certified in emergency medicine <b>or</b> board-certified in general surgery <b>or</b> is board-certified in another relevant specialty practicing emergency medicine as their primary practice;	X	X	X					
(ii) Is board-certified in pediatric emergency medicine, <b>or</b> board-certified in emergency medicine with special competence in the care of pediatric patients <b>or</b> board-certified in general surgery with special competence in the care of pediatric patients, <b>or</b> board-certified in a relevant specialty practicing emergency medicine as their primary practice with special competence in the care of pediatric patients;						X	X	X
(e) Emergency physicians who:	X	X	X	X	X	X	X	X
(i) Are board-certified in emergency medicine <b>or</b> board-certified in a relevant specialty practicing emergency medicine as their primary practice. This requirement can be met by a postgraduate year two or higher emergency medicine or general surgery resident working under the direct supervision of the attending emergency physician. The resident must be available within five minutes of notification of the patient's arrival to provide leadership and care until arrival of the general surgeon;	X	X						
(ii) Are board-certified in pediatric emergency medicine, <b>or</b> board-certified in emergency medicine with special competence in the care of pediatric patients, <b>or</b> board-certified in a relevant specialty practicing emergency medicine as their primary practice with special competence in the care of pediatric patients. This requirement can be met by a postgraduate year two or higher emergency medicine or general surgery resident with special competence in the care of pediatric trauma						X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
A facility with a designated trauma service must have:								
patients and working under the direct supervision of the attending emergency physician. The resident must be available within five minutes of notification of the patient's arrival, to provide leadership and care until arrival of the general surgeon;								
(iii) Are board-certified in emergency medicine or another relevant specialty practicing emergency medicine as their primary practice, <b>or</b> physicians practicing emergency medicine as their primary practice with current certification in ACLS and ATLS;			X					
(iv) Are board-certified pediatric emergency medicine, <b>or</b> board-certified in emergency medicine or surgery, with special competence in the care of pediatric patients, <b>or</b> board-certified in a relevant specialty practicing emergency medicine as their primary practice, with special competence in the care of pediatric patients, <b>or</b> physicians with current certification in ATLS, practicing emergency medicine as their primary practice, with special competence in the care of pediatric patients;								X
(v) Are board-certified in emergency medicine or another relevant specialty and practicing emergency medicine as their primary practice, <b>or</b> physicians with current certification in ACLS and ATLS. A physician assistant or advanced registered nurse practitioner current in ACLS and who audits ATLS every four years may initiate evaluation and treatment upon the patient's arrival in the emergency department until the arrival of the physician;				X				
(vi) Are board-certified or qualified in emergency medicine, surgery, or other relevant specialty and practicing emergency medicine as their primary practice, <b>or</b> physicians with current certification in ACLS and ATLS <b>or</b> physician assistants (PAs), or advanced registered nurse practitioners (ARNPs) with current certification in ACLS and who audit ATLS every four years;					X			
(vii) Are available within five minutes of notification of the patient's arrival in the emergency department;	X	X	X			X	X	X
(viii) Are on-call and available within twenty minutes of notification of the patient's arrival in the emergency department;				X	X			
(ix) Are currently certified in ACLS and ATLS. This requirement applies to all emergency physicians and residents who care for trauma patients in the emergency department except this requirement does not apply to physicians who are board-certified in emergency medicine <b>or</b> board-certified in another relevant specialty and practicing emergency medicine as their primary practice;	X	X	X	X	X			
(x) Are currently certified in ATLS. This requirement applies to all emergency physicians and residents who care for pediatric patients in the emergency department except this requirement does not apply to physicians who are board-certified in pediatric emergency medicine <b>or</b> board-certified in emergency medicine <b>or</b> board-certified in another relevant specialty and practicing emergency medicine as their primary practice;						X	X	X
(xi) Meet the PER as defined in subsection (27) of this section;	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>	X	X	X	X	X	X	X	X
(f) Emergency care registered nurses (RNs), who:	X	X	X			X	X	X
(i) Are in the emergency department and available within five minutes of notification of patient's arrival;	X	X	X			X	X	X
(ii) Are in-house, and available within five minutes of notification of the patient's arrival (except for level V clinics);				X	X			
(iii) Have current certification in ACLS;	X	X	X	X	X			
(iv) Have successfully completed a trauma nurse core course (TNCC) or department approved equivalent course;	X	X	X	X	X	X	X	X
(v) Have completed twelve hours of trauma related education every designation period. The trauma education must include, but is not limited to, the following topics: <ul style="list-style-type: none"> <li>• Mechanism of injury;</li> <li>• Shock and fluid resuscitation;</li> <li>• Initial assessment;</li> <li>• Stabilization and transport;</li> </ul>	X	X	X	X		X	X	X
(vi) Meet the PER as defined in subsection (27) of this section.	X	X	X	X	X	X	X	X
(g) Standard emergency equipment for the resuscitation and life support of adult and pediatric trauma patients, including:	X	X	X	X	X	X	X	X
(i) Immobilization devices:	X	X	X	X	X	X	X	X
■ Back board;	X	X	X	X	X	X	X	X
■ Cervical injury;	X	X	X	X	X	X	X	X
■ Long-bone;	X	X	X	X	X	X	X	X
(ii) Infusion control device:	X	X	X	X	X	X	X	X
■ Rapid infusion capability;	X	X	X			X	X	X
(iii) Intraosseous needles;	X	X	X	X	X	X	X	X
(iv) Sterile surgical sets:	X	X	X	X	X	X	X	X
■ Chest tubes with closed drainage devices;	X	X	X	X	X	X	X	X
■ Emergency transcutaneous airway;	X	X	X	X	X	X	X	X
■ Peritoneal lavage;	X	X	X	X		X	X	X
■ Thoracotomy;	X	X	X			X	X	X
(v) Thermal control equipment:	X	X	X	X	X	X	X	X
■ Blood and fluid warming;	X	X	X	X	X	X	X	X
■ Devices for assuring warmth during transport;	X	X	X	X	X	X	X	X
■ Expanded scale thermometer capable of detecting hypothermia;	X	X	X	X	X	X	X	X
■ Patient warming and cooling;	X	X	X	X	X	X	X	X
(vi) Other equipment:	X	X	X	X	X	X	X	X
■ Medication chart, tape or other system to assure ready access to information on proper doses-per-kilogram for resuscitation drugs and equipment sizes for pediatric patients;	X	X	X	X	X	X	X	X
■ Pediatric emergency airway equipment readily available or transported in-house with the pediatric patient for evaluation, treatment or diagnostics, including: <ul style="list-style-type: none"> <li>• Bag-valve masks;</li> <li>• Face masks;</li> <li>• Oral/nasal airways.</li> </ul>	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(15) Respiratory therapy services, with a respiratory care practitioner available within five minutes of notification of patient's arrival.	X	X	X			X	X	X
(16) Diagnostic imaging services (except for level V clinics), with:	X	X	X	X	X	X	X	X
(a) A radiologist in person or by teleradiology, who is:	X	X	X			X	X	X
(i) On-call and available within twenty minutes of the trauma team leader's request;	X	X				X	X	
(ii) On-call and available within thirty minutes of the trauma team leader's request;			X					X
(b) Personnel able to perform routine radiological capabilities, who are:	X	X	X	X	X	X	X	X
(i) Available within five minutes of notification of the patient's arrival;	X	X				X	X	
(ii) On-call and available within twenty minutes of notification of the patient's arrival;			X	X	X			X
(c) A technologist able to perform computerized tomography, who is:	X	X	X			X	X	X
(i) Available within five minutes of the trauma team leader's request;	X					X		
(ii) On-call and available within twenty minutes of the trauma team leader's request;		X	X				X	X
(d) Angiography with a technologist on-call and available within thirty minutes of the trauma team leader's request;	X	X				X	X	
(e) Magnetic resonance imaging, with a technologist on-call and available within sixty minutes of the trauma team leader's request;	X	X				X	X	
(f) Sonography with a technologist on-call and available within thirty minutes of the trauma team leader's request;	X	X				X	X	
(g) Interventional radiology services on-call and available within thirty minutes of the trauma team leader's request.	X	X				X	X	
(17) Clinical laboratory services (except for level V clinics), with:	X	X	X	X	X	X	X	X
(a) Lab services available within five minutes of notification of the patient's arrival;	X	X	X			X	X	X
(b) Lab services on-call and available within twenty minutes of notification of the patient's arrival;				X	X			
(c) Blood gases and pH determination;	X	X	X	X		X	X	X
(d) Coagulation studies;	X	X	X	X	X	X	X	X
(e) Drug or toxicology measurements;	X	X	X	X	X	X	X	X
(f) Microbiology;	X	X	X	X	X	X	X	X
(g) Serum alcohol determination;	X	X	X	X	X	X	X	X
(h) Serum and urine osmolality;	X	X				X	X	
(i) Standard analysis of blood, urine, and other body fluids.	X	X	X	X	X	X	X	X
(18) Blood and blood-component services (except for level V clinics), with:	X	X	X	X	X	X	X	X
(a) Ability to obtain blood typing and crossmatching;	X	X	X	X	X	X	X	X
(b) Autotransfusion;	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>	X	X	X	X	X	X	X	X
(c) Blood and blood components available from in-house or through community services, to meet patient needs;	X	X	X	X	X	X	X	X
(d) Blood storage capability;	X	X	X	X		X	X	X
(e) Noncrossmatched blood available on patient arrival in the emergency department;	X	X	X	X	X	X	X	X
(f) Policies and procedures for massive transfusion.	X	X	X	X		X	X	X
(19) General surgery services, with:	X	X	X			X	X	X
(a) Surgeons who:	X	X	X			X	X	X
(i) Are board-certified in general surgery and available within five minutes of notification of the patient's arrival when the full trauma team is activated. This requirement can be met by a postgraduate year four or higher surgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the general surgeon. In this case the general surgeon must be available within twenty minutes of notification of patient's arrival;	X							
(ii) Are board-certified in pediatric surgery or board-certified in general surgery with special competence in the care of pediatric patients and are available within five minutes of notification of the patient's arrival when the full trauma team is activated. This requirement can be met by a post graduate year four or higher pediatric surgery resident or a general surgery resident with special competence in the care of pediatric patients. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the pediatric or general surgeon. In this case the pediatric or general surgeon must be available within twenty minutes of notification of patient's arrival;						X		
(iii) Are board-certified in general surgery. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is twenty minutes or more. Otherwise the maximum surgeon arrival time is twenty minutes of patient arrival to the emergency department. This requirement can be met by a postgraduate year four or higher surgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the general surgeon;		X						
(iv) Are board-certified in pediatric surgery <b>or</b> board-certified in general surgery with special competence in the care of pediatric patients. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is twenty minutes or more. Otherwise the maximum surgeon arrival time is twenty minutes of patient arrival to the emergency department. This requirement can be met by a postgraduate-year four or higher pediatric surgery resident or a general surgical resident with special competence in the care of pediatric patients. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the pediatric or general surgeon;							X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
(v) Are board-certified or board-qualified. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is thirty minutes or more. Otherwise the maximum surgeon arrival time is thirty minutes of patient arrival to the emergency department;			X					
(vi) Are board-certified or board-qualified, with special competence in the care of pediatric patients. For full trauma team activations, the surgeon must be in the emergency department upon patient arrival when prehospital estimated time of arrival (ETA) is thirty minutes or more. Otherwise the maximum surgeon arrival time is thirty minutes of patient arrival to the emergency department;								X
(vii) Are currently certified in ACLS and ATLS. This requirement applies to all surgeons and residents caring for trauma patients except this requirement does not apply to surgeons who are board certified in general surgery;	X	X	X					
(viii) Are currently certified in ATLS. This requirement applies to all surgeons and residents caring for pediatric trauma patients except this requirement does not apply to surgeons who are board certified in pediatric or general surgery;						X	X	X
(ix) Meet the PER as defined in subsection (27) of this section;	X	X	X			X	X	X
(b) A written plan for general surgery coverage, if the general surgeon on call for trauma is otherwise clinically engaged. The plan must take into consideration the trauma service's total patient volume, patient acuity, geographic proximity to other trauma services, depth of trauma care resources, and the trauma scope of service. The plan must be monitored through the trauma service's trauma quality improvement program;	X	X	X			X	X	X
(c) For level IV, general surgery services that meet all level III general surgery service standards if the facility's trauma scope of service includes general surgery services twenty-four hours every day, <b>or</b> transfer trauma patients who need general surgery services to a designated trauma service with general surgery services available.				X				
(20) Neurosurgery services with neurosurgeons, who are: (a) Board-certified, and: (i) Available within five minutes of the trauma team leader's request; (ii) This requirement can be met by a postgraduate year four or higher neurosurgery resident. The resident may initiate evaluation and treatment upon the patient's arrival in the emergency department until arrival of the neurosurgeon. In this case the neurosurgeon must be available within thirty minutes of notification of patient's arrival;	X X	X				X X	X	
(b) Board-certified or board-qualified and on-call and available within thirty minutes of the trauma team leader's request;		X					X	
(c) For level III and IV, board-certified or board-qualified and on-call and available within thirty minutes of the trauma team leader's request if the facility's trauma scope of service includes neurosurgery services twenty-four hours every day <b>or</b>			X	X				X



WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
transfer trauma patients who need neurosurgery services to a designated trauma service with neurosurgery services available.								
(21) Surgical services on-call and available within thirty minutes of the trauma team leader's request for:	X	X	X			X	X	X
(a) Cardiac surgery;	X					X		
(b) Microsurgery;	X					X		
(c) Obstetric surgery <b>or</b> for level III trauma services, a plan to manage the pregnant trauma patient;	X	X	X			X	X	X
(d) Orthopedic surgery;	X	X	X			X	X	X
(e) For level IV, orthopedic surgery if the facility's trauma scope of service includes orthopedic surgery services twenty-four hours every day, <b>or</b> transfer trauma patients who need orthopedic surgery services to a designated trauma service with orthopedic surgery services available;				X				
(f) Thoracic surgery;	X	X				X	X	
(g) Urologic surgery;	X	X				X	X	
(h) Vascular surgery.	X	X				X	X	
(22) Surgical services on-call for patient consultation or management at the trauma team leader's request for:	X	X				X	X	
(a) Cranial facial surgery;	X	X				X	X	
(b) Gynecologic surgery;	X	X				X	X	
(c) Ophthalmic surgery;	X	X				X	X	
(d) Plastic surgery.	X	X				X	X	
(23) Anesthesiology services, with board-certified anesthesiologists or certified registered nurse anesthetists (CRNAs), who:	X	X	X			X	X	X
(a) Are available within five minutes of the trauma team leader's request;	X					X		
(b) Are on-call and available within twenty minutes of the trauma team leader's request;		X					X	
(c) Are on-call and available within thirty minutes of the trauma team leader's request;			X					X
(d) Are ACLS trained except this requirement does not apply to physicians board-certified in anesthesiology;	X	X	X			X	X	X
(e) Meet the PER as defined in subsection (27) of this section.	X	X	X			X	X	X
(f) For level IV, meet all level III anesthesiology service standards, if the facility's trauma scope of service includes surgery services twenty-four hours every day <b>or</b> transfer trauma patients who need surgery services to a designated trauma service with surgery services available.				X				
(24) Operating room services, with:	X	X	X			X	X	X
(a) Hospital staff responsible for opening and preparing the operating room available within five minutes of notification;	X	X	X			X	X	X
(b) Operating room staff on-call and available within twenty minutes of notification;	X	X				X	X	
(c) Operating room staff on-call and available within thirty minutes of notification;			X					X
(d) A written plan to mobilize additional surgical team members for trauma patient surgery;	X	X	X			X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>	X	X	X			X	X	X
(e) Standard surgery instruments and equipment needed to perform operations on adult and pediatric patients, including:	X	X	X			X	X	X
(i) Autologous blood recovery and transfusion;	X	X	X			X	X	X
(ii) Bronchoscopic capability;	X	X	X			X	X	X
(iii) Cardiopulmonary bypass;	X	X				X	X	
(iv) Craniotomy set;	X	X				X	X	
(v) Endoscopes;	X	X	X			X	X	X
(vi) Rapid infusion capability;	X	X	X			X	X	X
(vii) Thermal control equipment:	X	X	X			X	X	X
■ Blood and fluid warming;	X	X	X			X	X	X
■ Patient warming and cooling;	X	X	X			X	X	X
(f) For level IV, operating room services that meet all level III operating room service standards if the facility's trauma scope of care includes surgery services twenty-four hours every day <b>or</b> transfer trauma patients who need surgery services to a designated trauma service with surgery services available.				X				
(25) Post anesthesia care services with:	X	X	X			X	X	X
(a) At least one registered nurse available twenty-four hours every day;	X					X		
(b) At least one registered nurse on-call and available twenty-four hours every day;		X	X				X	X
(c) Registered nurses who are ACLS trained;	X	X	X			X	X	X
(d) For level IV, post anesthesia care services that meet all level III post anesthesia care service standards if the facility's trauma scope of care includes general surgery services twenty-four hours every day <b>or</b> transfer trauma patients who need surgery services to a designated trauma service with surgery services available.				X				
(26) Critical care services, with:	X	X	X			X	X	
(a) A critical care medical director, who is:	X	X	X			X	X	
(i) Board-certified in:	X							
(A) Surgery and critical care;	X							
(B) Pediatric critical care;						X		
(ii) Board-certified in critical care <b>or</b> board-certified in surgery, internal medicine or anesthesiology with special competence in critical care;		X	X					
(iii) Board-certified in critical care, with special competence in pediatric critical care <b>or</b> is board-certified in surgery, internal medicine or anesthesiology, with special competence in pediatric critical care;							X	
(iv) Responsible for coordinating with the attending physician for trauma patient care;	X	X	X			X	X	
(b) Critical care registered nurses, who:	X	X	X			X	X	
(i) Are ACLS trained;	X	X	X					
(ii) Have special competence in pediatric critical care;						X	X	
(iii) Have completed a minimum of six contact hours of trauma specific education every three-year designation period;	X	X				X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(iv) Have completed a minimum of three contact hours of trauma specific education every three-year designation period;			X					
(c) A physician directed code team;	X	X	X			X	X	
(d) Pediatric patient isolation capacity;						X	X	
(e) General surgery consults for critical care trauma patients <b>or</b> if intensivists are the primary admitting nonsurgical physician caring for trauma patients, the intensivists must complete a minimum of twelve hours of trauma critical care specific continuing medical education (CME) every three-year designation period;	X	X	X			X	X	X
(f) Standard critical care equipment for adult and pediatric trauma patients, including:	X	X	X			X	X	
(i) Cardiac devices:	X	X	X			X	X	
■ Cardiac pacing capabilities;	X	X	X			X	X	
■ Cardiac monitor with at least two pressure monitoring modules (cardiac output and hard copy recording), with the capability to continuously monitor heart rate, respiratory rate, and temperature;	X	X	X			X	X	
(ii) Intracranial pressure monitoring devices;	X	X				X	X	
(iii) Intravenous supplies:	X	X	X			X	X	
■ Infusion control device;	X	X	X			X	X	
■ Rapid infusion capability;	X	X	X			X	X	
(iv) Sterile surgical sets:	X	X	X			X	X	
■ Chest tubes;	X	X	X			X	X	
■ Emergency surgical airway;	X	X	X			X	X	
■ Peritoneal lavage;	X	X	X			X	X	
■ Thoracotomy;	X	X	X			X	X	
(v) Thermal control equipment:	X	X	X			X	X	
■ Blood and fluid warming;	X	X	X			X	X	
■ Devices for assuring warmth during transport;	X	X	X			X	X	
■ Expanded scale thermometer capable of detecting hypothermia;	X	X	X			X	X	
■ Patient warming and cooling;	X	X	X			X	X	
(g) A written policy to transfer all pediatric trauma patients who need critical care services to a pediatric designated trauma service with critical care services available;	X	X	X					
(h) For level IV, critical care services that meet all level III critical care service standards, if the facility's trauma scope of service includes critical care services for trauma patients twenty-four hours every day <b>or</b> transfer trauma patients who need critical care services to a designated trauma service with critical care services available;				X				
(i) For level III pediatric trauma services, critical care services that meet all level II pediatric critical care service standards if the facility's trauma scope of care includes pediatric critical care services for trauma patients twenty-four hours every day <b>or</b> transfer pediatric trauma patients who need critical care services to a designated pediatric trauma service, with pediatric critical care services available.								X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(27) Pediatric education requirement (PER):	X	X	X	X	X	X	X	X
(a) PER must be met by the following providers who are directly involved in the initial resuscitation and stabilization of pediatric trauma patients:	X	X	X	X	X	X	X	X
(i) Emergency department physicians;	X	X	X	X	X	X	X	X
(ii) Emergency department registered nurses;	X	X	X	X	X			
(iii) Physician assistants or ARNPs who initiate evaluation and treatment prior to the arrival of the physician in the emergency department;				X	X			
(iv) Emergency medicine or surgical residents who initiate care prior to the arrival of the emergency physician;	X	X				X	X	
(v) General surgeons;	X	X	X			X	X	X
(vi) Surgical residents who initiate care prior to the arrival of the general surgeon;	X	X				X	X	
(vii) Anesthesiologists and CRNAs;	X	X	X			X	X	X
(viii) General surgeons, anesthesiologists and CRNAs if the facility's trauma scope of service includes general surgery services twenty-four hours every day;				X				
(ix) Intensivists involved in the resuscitation, stabilization and in-patient care of pediatric trauma patients;						X	X	X
(b) PER must be met by completing pediatric specific contact hours as defined below:	X	X	X	X	X	X	X	X
(i) Five contact hours per provider during each three-year designation period;	X	X	X	X	X			
(ii) Seven contact hours per provider during each three-year designation period;						X	X	X
(iii) Contact hours should include, but are not limited to, the following topics: <ul style="list-style-type: none"> <li>• Initial stabilization and transfer of pediatric trauma;</li> <li>• Assessment and management of pediatric airway and breathing;</li> <li>• Assessment and management of pediatric shock, including vascular access;</li> <li>• Assessment and management of pediatric head injuries;</li> <li>• Assessment and management of pediatric blunt abdominal trauma;</li> </ul>	X	X	X	X	X	X	X	X
(iv) Contact hours may be accomplished through one or more, but not limited to, the following methods: <ul style="list-style-type: none"> <li>• Review and discussion of individual pediatric trauma cases within the trauma quality improvement program;</li> <li>• Staff meetings;</li> <li>• Classes, formal or informal;</li> <li>• Web-based learning;</li> <li>• Certification in ATLS, PALS, APLS, ENPC, or other department approved equivalents;</li> <li>• Other methods of learning which appropriately communicates the required topics listed in this section.</li> </ul>	X	X	X	X	X	X	X	X
(28) Acute dialysis services, <b>or</b> must transfer trauma patients needing dialysis.	X	X	X	X	X	X	X	X

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>	X	X	X	X	X	X	X	X
(29) A burn center, in accordance with the American Burn Association, to care for burn patients, <b>or</b> must transfer burn patients to a burn center, in accordance with the American Burn Association transfer guidelines.	X	X	X	X	X	X	X	X
(30) Services on-call for consultation or patient management:	X	X	X			X	X	X
(a) Cardiology;	X	X				X	X	
(b) Gastroenterology;	X	X				X	X	
(c) Hematology;	X	X				X	X	
(d) Infectious disease specialists;	X	X				X	X	
(e) Internal medicine;	X	X	X					
(f) Nephrology;	X	X				X	X	
(g) Neurology;	X	X				X	X	
(h) Pediatric neurology;						X	X	
(i) Pathology;	X	X	X			X	X	X
(j) Pediatrician;	X	X				X	X	X
(k) Pulmonology;	X	X				X	X	
(l) Psychiatry <b>or</b> a plan for management of the psychiatric trauma patient.	X	X				X	X	
(31) Ancillary services available for trauma patient care:	X	X	X	X	X	X	X	X
(a) Adult protective services;	X	X	X	X	X			
(b) Child protective services;	X	X	X	X	X	X	X	X
(c) Chemical dependency services;	X	X	X			X	X	X
(d) Nutritionist services;	X	X	X	X		X	X	X
(e) Occupational therapy services;	X	X	X			X	X	X
(f) Pastoral or spiritual care;	X	X	X	X	X	X	X	X
(g) Pediatric therapeutic recreation/child life specialist;						X	X	
(h) Pharmacy services, with an in-house pharmacist;	X					X		
(i) Pharmacy services;		X	X	X	X		X	X
(j) Physical therapy services;	X	X	X	X		X	X	X
(k) Psychological services;	X	X	X			X	X	X
(l) Social services;	X	X	X	X		X	X	X
(m) Speech therapy services.	X	X	X			X	X	X
(32) A trauma care outreach program, including:	X	X				X	X	
(a) Telephone consultations with physicians of the community and outlying areas;								
(b) On-site consultations with physicians of the community and outlying areas.								
(33) Injury prevention, including:	X	X	X	X	X	X	X	X
(a) A public injury prevention education program;	X	X	X			X	X	X
(b) Participation in community or regional injury prevention activities;	X	X	X	X	X	X	X	X
(c) A written plan for drug and alcohol screening and brief intervention and referral.	X	X	X	X	X	X	X	X
(34) A formal trauma education training program, for:	X	X				X	X	
(a) Allied health care professional;	X	X				X	X	
(b) Community physicians;	X	X				X	X	
(c) Nurses;	X	X				X	X	

WAC 246-976-700 Trauma Service Standards	Adult Levels					Pediatric Levels		
	I	II	III	IV	V	I P	II P	III P
<b>A facility with a designated trauma service must have:</b>								
(d) Prehospital personnel;	X	X				X	X	
(e) Staff physicians.	X	X				X	X	
(35) Initial and maintenance training of invasive manipulative skills for prehospital personnel.	X	X	X	X		X	X	X
(36) Residency programs: (a) Accredited by the Accreditation Council of Graduate Medical Education; (b) With a commitment to training physicians in trauma management.	X					X		
(37) A trauma research program with research applicable to the adult and pediatric trauma patient population.	X					X		
(38) For joint trauma service designation (when two or more hospitals apply to share a single trauma designation): (a) A single, joint multidisciplinary trauma quality improvement program in accordance with the trauma quality improvement standards defined in subsection (4) of this section; (b) A set of common policies and procedures adhered to by all hospitals and providers in the joint trauma service; (c) A predetermined, published hospital rotation schedule for trauma care.	X	X	X			X	X	X

NEW SECTION

**WAC 246-976-800 Trauma rehabilitation service standards.**

WAC 246-976-800 Trauma Rehabilitation Service Standards	Levels			
	I	II	III	I Pediatric
<b>A designated trauma rehabilitation service must:</b>				
(1) Be a licensed hospital as defined in chapter 246-320 WAC.	X			X
(2) Treat adult and adolescent trauma patients in inpatient and outpatient settings regardless of disability or level of severity or complexity.	X			
(3) Treat pediatric and adolescent trauma patients in inpatient and outpatient settings regardless of disability or level of severity or complexity.				X
(4) Treat adult and adolescent trauma patients in inpatient and outpatient settings with disabilities or level of severity or complexity within the facility's capability and as specified in the facility's admission criteria.		X		
(5) For adolescent patients (approximately twelve to eighteen years of age), the service must consider whether physical development, educational goals, preinjury learning or developmental status, social or family needs, and other factors indicate treatment in an adult or pediatric rehabilitation service.	X	X		X
(6) Have and retain full accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) for inpatient medical rehabilitation programs.	X	X		
(7) Have and retain full accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) for pediatric inpatient medical rehabilitation programs.				X
(8) House patients on a designated rehabilitation nursing unit.	X	X		
(9) House patients in a designated pediatric rehabilitation area, providing an environment appropriate to the age and developmental status of the patient.				X
(10) Provide a peer group for persons with similar disabilities.	X	X		X
(11) Have a medical director who: (a) Is a physiatrist; (b) Is responsible for the organization and direction of the trauma rehabilitation service; and	X	X		X

WAC 246-976-800 Trauma Rehabilitation Service Standards	Levels			
	I	II	III	I Pediatric
<b>A designated trauma rehabilitation service must:</b>				
(c) Participates in the trauma rehabilitation service's quality improvement program.				
(12) Have a physiatrist in-house or on-call twenty-four hours every day and responsible for the day-to-day clinical management and the treatment plan of trauma patients.	X	X		X
(13) Provide rehabilitation nursing personnel twenty-four hours every day, with:	X	X		X
(a) Management and supervision by a registered nurse;	X	X		X
(b) The initial care plan and weekly update reviewed and approved by a certified rehabilitation registered nurse (CRRN);	X	X		X
(c) An orientation and training program for all levels of rehabilitation nursing personnel;	X	X		X
(d) A minimum of six clinical nursing care hours, per patient day, for each trauma patient;	X	X		X
(e) At least one CRRN on duty, each day and evening shift, when a trauma patient is present;	X			X
(f) At least one CRRN on duty, one shift each day, when a trauma patient is present.		X		
(14) Provide the following trauma rehabilitation services with providers who are licensed, registered, certified, or degreed and are available to provide treatment as defined in the patient's rehabilitation plan:	X	X		X
(a) Occupational therapy;	X	X		X
(b) Physical therapy;	X	X		X
(c) Speech/language pathology;	X	X		X
(d) Social services;	X	X		X
(e) Nutritional counseling;	X	X		X
(f) Clinical psychological services, including testing and counseling;	X	X		X
(g) Neuropsychological services.	X	X		X
(15) Provide the following health personnel and consultative services in-house or on-call twenty-four hours every day:	X	X		X
(a) A pharmacist with immediate access to pharmaceuticals and patient medical records and pharmacy data bases;	X	X		X
(b) Respiratory care practitioners;	X	X		X
(c) Pastoral or spiritual care;	X	X		X
(d) A radiologist;	X	X		X
(e) A pediatrician.				X
(16) Provide the following services in-house or through affiliation or consultative arrangements with providers who are licensed, registered, certified, or degreed:	X	X		X
(a) Anesthesiology (anesthesiologist or CRNA);	X	X		X
(b) Audiology;	X	X		X
(c) Communication augmentation;	X	X		X
(d) Dentistry;	X	X		X
(e) Diagnostic imaging, including:	X	X		X
(i) Computerized tomography;				
(ii) Magnetic resonance imaging;				
(iii) Nuclear medicine; and				
(iv) Radiology;				
(f) Driver evaluation and training;	X	X		
(g) Educational program appropriate to the disability and developmental level of the pediatric or adolescent patient, to include educational screening, instruction, and discharge planning coordinated with the receiving school district;	X	X		X
(h) Electrophysiologic testing, including:	X	X		X

WAC 246-976-800 Trauma Rehabilitation Service Standards	Levels			
	I	II	III	I Pediatric
<b>A designated trauma rehabilitation service must:</b>				
(i) Electroencephalography;				
(ii) Electromyography; and				
(iii) Evoked potentials;				
(i) Laboratory services;	X	X		X
(j) Orthotics;	X	X		X
(k) Prosthetics;	X	X		X
(l) Pediatric therapeutic recreation specialist or child life specialist;				X
(m) Rehabilitation engineering for device development and adaptations;	X	X		X
(n) Substance abuse counseling;	X	X		X
(o) Therapeutic recreation;	X	X		X
(p) Vocational rehabilitation;	X	X		
(q) Urodynamic testing.	X	X		X
(17) Have providers with documented special competence in pediatric rehabilitation care. This requirement applies to all pediatric trauma rehabilitation providers.				X
(18) Serve as a regional referral center for patients in their geographical area needing only level II or III rehabilitation care.	X			
(19) Have an outreach program regarding trauma rehabilitation care, consisting of telephone and on-site consultations with physicians and other health care professionals in the community and outlying areas.	X	X		X
(20) Have a formal program of continuing trauma rehabilitation care education, both in-house and outreach, provided for nurses and allied health care professionals.	X	X		X
(21) Have an ongoing structured program to conduct clinical studies, applied research, or analysis in rehabilitation of trauma patients, and report results within a peer review process.	X			X
(22) Have a quality improvement program that reflects and demonstrates a process for continuous quality improvement in the delivery of trauma rehabilitation care, with: (a) An organizational structure and plan that facilitates the process of quality improvement and identifies the authority to change policies, procedures, and protocols that address the care of the trauma patient; (b) Representation and participation by the interdisciplinary trauma rehabilitation team; (c) A process for communicating and coordinating with referring trauma care providers as needed; (d) Development of outcome standards; (e) A process for monitoring compliance with or adherence to the outcome standards; (f) A process of internal peer review to evaluate specific cases or problems; (g) A process for implementing corrective action to address problems or deficiencies; (h) A process to analyze and evaluate the effect of corrective action; and (i) A process to ensure that confidentiality of patient and provider information is maintained according to the standards of RCW 70.41.200 and 70.168.090.	X	X		X
(23) Participate in the regional trauma quality improvement program as defined in WAC 246-976-910.	X	X	X	X
(24) Participate in the Washington state trauma registry as defined in WAC 246-976-430.	X	X	X	X
(25) Provide a community based program of coordinated and integrated outpatient trauma rehabilitation services, evaluation, and treatment to persons with trauma-related functional limitations who do not need or no longer require comprehensive inpatient rehabilitation. Services may be provided in, but not limited to, the following settings: (a) Freestanding outpatient rehabilitation centers; (b) Organized outpatient rehabilitation programs in acute hospital settings;			X	



WAC 246-976-800 Trauma Rehabilitation Service Standards	Levels			
	I	II	III	I Pediatric
<b>A designated trauma rehabilitation service must:</b>				
(c) Day hospital programs; (d) Other community settings.				
(26) Treat patients according to admission criteria based on diagnosis and severity.			X	
(27) Be directed by a physician with training and/or experience necessary to provide rehabilitative physician services, acquired through one of the following: (a) Formal residency in physical medicine and rehabilitation; or (b) A fellowship in rehabilitation for a minimum of one year; or (c) A minimum of two years' experience in providing rehabilitation services for patients typically seen in CARF-accredited inpatient rehabilitation programs.			X	
(28) Provide the following trauma rehabilitation services with providers who are licensed, registered, or certified according to the frequency as defined in the rehabilitation plan: (a) Occupational therapy; (b) Physical therapy; (c) Social services; (d) Speech/language pathology.			X	
(29) Provide or assist the patient to obtain the following as defined in the rehabilitation plan: (a) Audiology; (b) Dentistry; (c) Driver evaluation and training; (d) Education; (e) Nursing; (f) Nutrition counseling; (g) Orthotics; (h) Pastoral or spiritual care; (i) Prosthetics; (j) Psychology; (k) Rehabilitation engineering for device development and adaptations; (l) Respiratory therapy; (m) Substance abuse counseling; (n) Therapeutic recreation; (o) Vocational rehabilitation.			X	
(30) Have a quality improvement program that reflects and demonstrates a process for continuous quality improvement in the delivery of trauma care, with: (a) A process to identify and monitor trauma rehabilitation care and outcome standards and indicators; (b) An interdisciplinary team, to include the trauma rehabilitation service physician director; (c) A process to ensure confidentiality of patient and provider information in accordance with RCW 70.41.200 and 70.168.090.			X	

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-976-485      Designation of facilities to provide trauma care services.

WAC 246-976-490

WAC 246-976-530

Suspension or revocation of designation.

Trauma service designation—Administration and organization.

WAC 246-976-535	Trauma service designation—Basic resources and capabilities.
WAC 246-976-540	Trauma service designation—Outreach, public education, provider education, and research.
WAC 246-976-620	Equipment standards for trauma service designation.
WAC 246-976-750	Pediatric trauma service designation—Administration and organization.
WAC 246-976-755	Pediatric trauma service designation—Basic resources and capabilities.
WAC 246-976-760	Pediatric trauma service designation—Outreach, public education, provider education, and research.
WAC 246-976-830	Designation standards for facilities providing level I trauma rehabilitation service.
WAC 246-976-840	Designation standards for facilities providing level II trauma rehabilitation service.
WAC 246-976-850	Designation standards for level III trauma rehabilitation service.
WAC 246-976-860	Designation standards for facilities providing level I pediatric trauma rehabilitation service.
WAC 246-976-870	Trauma team activation.
WAC 246-976-881	Trauma quality improvement programs for designated trauma care services.
WAC 246-976-885	Educational requirements—Designated trauma care service personnel.
WAC 246-976-886	Pediatric education requirements (PER) for nonpediatric designated facilities.
WAC 246-976-887	Pediatric education requirements (PER) for pediatric designated facilities.

**WSR 09-18-123**  
**PROPOSED RULES**  
**STATE BOARD OF HEALTH**

[Filed September 2, 2009, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-06-051.

Title of Rule and Other Identifying Information: Chapter 246-272C WAC, On-site sewage system tanks.

Hearing Location(s): Washington State Capitol Campus, John A. Cherberg Building, Senate Hearing Room 3, on October 14, 2009, at 1:30 p.m.

Date of Intended Adoption: October 14, 2009.

Submit Written Comments to: Melissa McEachron, Department of Health, P.O. Box 47824, Olympia, WA 98504-7824, web site <http://www3.doh.wa.gov/policy/review/>, fax (360) 236-2257, by October 7, 2009.

Assistance for Persons with Disabilities: Contact Desiree Robinson by October 7, 2009, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule establishes sewage tank design and construction requirements; establishes the review and approval process; and creates a prefabricated sewage tank registry. This proposed rule protects public health by making certain the department of health reviews and approves the sewage tank design and construction plan before the tank is used as part of an on-site sewage system design.

Reasons Supporting Proposal: Chapters 246-272A and 246-272B WAC require that the department of health review and approve sewage tanks. Establishing a consistent approach with understandable requirements reduces the number of poorly designed and constructed sewage tanks, provides a level-playing-field among manufacturers, and consolidates approved prefabricated sewage tank models and sizes in one registry.

Statutory Authority for Adoption: RCW 43.20.050 (2) and (3).

Statute Being Implemented: RCW 43.20.050 (2) and (3).

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

Name of Proponent: State board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Melissa McEachron, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3265; Implementation: Denise Lahmann, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3348; and Enforcement: Stuart Glasoe, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3246.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Melissa McEachron, Department of Health, P.O. Box 47824, Olympia, WA 98504-7824, phone

(360) 236-3265, fax (360) 236-2257, e-mail melissa.mceachron@doh.wa.gov.

September 2, 2009  
Craig McLaughlin  
Executive Director

## Chapter 246-272C WAC

### ON-SITE SEWAGE SYSTEM TANKS

#### PURPOSE AND ADMINISTRATION

##### NEW SECTION

**WAC 246-272C-0001 Authority, purpose, and objectives.** (1) **Purpose.** The purpose of this chapter is to protect public health and safety by assuring proper design and construction of all tanks used in on-site sewage systems. Proper sewage tank design and construction will help prevent:

(a) Surface or ground water leaking into tanks and adversely impacting the treatment and dispersal functions of system components; and

(b) Sewage from tanks leaking into the soil and adversely impacting ground water or surface water, or causing sewage to surface on the ground.

(2) **Objectives.** This chapter establishes requirements and provides measures to achieve effective long-term sewage treatment and limit the discharge of contaminants to waters of the state. The objectives include:

(a) Establishing design and construction standards;

(b) Requiring department review and approval of design and construction plans for prefabricated tanks and cast-in-place tanks; and

(c) Creating a process to register prefabricated tank sizes and models built from approved design and construction plans.

##### NEW SECTION

**WAC 246-272C-0005 Administration.** The department shall administer this chapter under the authority and requirements of chapter 43.70 RCW. The local health officers shall administer portions of this chapter related to on-site sewage systems with design flows of less than three thousand five hundred gallons per day, as described in chapter 70.05 RCW.

##### NEW SECTION

**WAC 246-272C-0010 Applicability and relationship to other rules.** (1) This chapter applies to all prefabricated tanks and all cast-in-place tanks. This chapter establishes sewage tank design and construction requirements, plan review and approval requirements, and prefabricated tank registration requirements.

(2) This chapter contains specific requirements for:

(a) Manufacturers of prefabricated tanks and builders of cast-in-place tanks;

(b) Persons designing sewage tanks;

(c) The department for reviewing, registering, and approving sewage tank design and construction plans;

(d) Persons installing sewage tanks; and

(e) The local health officer and the department for approving on-site sewage system designs, plans, specifications, and installations under chapters 246-272A and 246-272B WAC.

(3) This chapter does not contain all requirements for on-site sewage systems. Additional requirements for on-site sewage systems, including maintenance requirements, are found in chapters 246-272A and 246-272B WAC.

(4) This chapter does not apply to:

(a) Facilities regulated by the department of ecology;

(b) Reclaimed water systems as described in chapter 90.46 RCW;

(c) Tanks used to store municipal sewage sludge regulated as biosolids under chapter 173-308 WAC; or

(d) Geomembrane containment vessels for public domain treatment technologies. An example of this excluded technology is PVC containment vessels for public domain packed bed filters.

##### NEW SECTION

**WAC 246-272C-0020 Definitions.** (1) **"AASHTO"** means American Association of State and Highway Transportation Officials.

(2) **"Approved"** means a written statement of acceptability issued by the department of health or the local health officer.

(3) **"Baffle"** means a device placed in a sewage tank for multiple functions, including dissipating energy, directing solids, retaining solids, and drawing liquid off at a specific depth. A baffle is not an intercompartmental wall.

(4) **"Cast-in-place tank"** means a sewage tank specifically designed for and constructed at the location where it will be used.

(5) **"Department"** means the Washington state department of health.

(6) **"Designer"** means a person who matches site and soil characteristics with appropriate on-site sewage technology. Throughout this chapter this term applies to on-site wastewater treatment system designers licensed under chapter 18.210 RCW.

(7) **"Design engineer"** as used in this chapter, means a professional engineer who is experienced and qualified in the analysis and design of on-site wastewater treatment systems or wastewater treatment system components, and is either licensed in Washington in accordance with chapter 18.43 RCW or is licensed in another state and an exception specified in RCW 18.43.130 applies. If the sewage tank is considered a "significant structure," as defined in chapter 18.43 RCW, the design engineer shall be licensed as a structural engineer unless an exception specified in RCW 18.43.040 applies.

(8) **"Effluent"** means liquid discharged from a sewage tank or other on-site sewage system component.

(9) **"Grey water"** means domestic type flows from bathtubs, showers, bathroom sinks, washing machines, dish-

washers, and kitchen or utility sinks. Grey water does not include flow from a toilet or urinal.

(10) "**Grease interceptor tank**" means a watertight tank similar in design to a septic tank receiving grey water that may contain grease, such as from food service establishments. The interceptor tank is designed and constructed to permit adequate separation of grease from the rest of the sewage prior to discharge into an approved sewage treatment and disposal or dispersal system.

(11) "**Holding tank**" means a sewage tank that is a component of an on-site sewage system designed to receive and temporarily store sewage from one or more facilities or dwellings for removal, dispersal, and ultimate disposal of the sewage at another location.

(12) "**Holding tank sewage system**" means an on-site sewage system that uses a holding tank, the services of a septic pumper, and off-site treatment and disposal of the sewage generated.

(13) "**Installer**" means a person approved by the local health officer to install on-site sewage systems or components, or as defined in chapter 246-272B WAC.

(14) "**Local health officer**" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department, or his or her designee appointed by the local board of health.

(15) "**On-site sewage system**" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component.

(16) "**Person**" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(17) "**Prefabricated tank**" means a sewage tank that is manufactured off-site and delivered to the site for installation.

(18) "**Pump tank**" means a tank that contains pumping or dosing equipment.

(19) "**Septage**" means the mixture of solid wastes, scum, sludge, and liquids pumped from within septic tanks, pump chambers, holding tanks, and other on-site sewage system components.

(20) "**Septic pumper**" means a person approved by the local health officer to remove and transport sewage or septage from on-site sewage systems.

(21) "**Septic tank**" means a watertight treatment receptacle receiving the discharge of sewage from a building sewer or sewers; designed and constructed to permit separation of settleable and floating solids from the liquid, and detention and anaerobic digestion of the organic matter, prior to discharge of the liquid.

(22) "**Sewage**" means any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry

wastes from residences, buildings, industrial establishments, or other places.

(23) "**Sewage tank**" means a watertight prefabricated or cast-in-place septic tank, pump tank, holding tank, grease interceptor tank, recirculating filter tank, a tank used with a proprietary product, and any other tank used in an on-site sewage system. This term also includes tanks used in a septic tank effluent pump or vacuum collection/transmission system for an on-site sewage system.

(24) "**Trash tank**" means a type of sewage tank that removes material from sewage that microorganisms cannot degrade before the sewage enters a chamber where decomposition occurs.

(25) "**Watertight**" means liquids are prevented from entering or escaping except through designed openings such as inlets, outlets, intercompartmental wall fittings or baffles.

## SEWAGE TANK APPROVALS AND REGISTERED LIST REQUIREMENTS

### NEW SECTION

**WAC 246-272C-0110 General requirements.** (1) The department shall review and approve all sewage tank design and construction plans.

(2) Prefabricated tank models and sizes built from approved design and construction plans must be registered with the department.

(3) Cast-in-place tanks are project specific and must be constructed using a design and construction plan approved by the department.

(4) Designers and design engineers shall specify only prefabricated tanks registered with the department or a cast-in-place tank approved by the department in their on-site sewage system designs, plans, and specifications.

(5) Installers shall install only prefabricated tanks registered with the department or construct only cast-in-place tanks that the department has reviewed and approved.

(6) A manufacturer or agent shall sell only prefabricated tanks registered with the department in Washington.

(7) Local health officers and the department shall approve only on-site sewage system designs and installations specifying either a prefabricated tank registered with the department or a cast-in-place tank approved by the department.

### NEW SECTION

**WAC 246-272C-0120 Application process for sewage tank design and construction plan approval.** (1) An applicant for sewage tank design and construction plan approval shall apply to the department by submitting a completed application in the format required by the department. For required sewage tank application information, see WAC 246-272C-0125.

(2) When the department receives an application, the department shall:

(a) Review applications in the order received;

(b) Verify the application is complete and includes any applicable fee;

- (c) Return any incomplete application;
  - (d) Provide the applicant with an approximate date the department expects to complete the review; and
  - (e) Review and evaluate the design and construction plans and all information submitted to determine whether all applicable requirements are met.
- (3) If the department determines the sewage tank design and construction plan meets all applicable requirements, the department shall:
- (a) Approve the application and the sewage tank design and construction plan;
  - (b) Notify the applicant of the department's decision in writing;
  - (c) Bill the applicant for any additional fee owed beyond the base fee; and
  - (d) Upon receipt of payment of any additional fees:
    - (i) Place the specific prefabricated tank model number, size, and manufacturer information on the sewage tank registered list; or
    - (ii) Authorize construction of the cast-in-place tanks.
- (4) If the department determines the tank design and construction plans do not meet all applicable requirements, the department shall:
- (a) Deny the application; and
  - (b) Notify the applicant of the department's decision in writing stating the specific reasons for the denial.

**NEW SECTION**

**WAC 246-272C-0125 Required application information.** (1) **Prefabricated tanks:** The application for prefabricated tank design and construction approval must include the information listed in Table 1.

Table 1—Required Application Information

(a) Manufacturer information:	(i) Manufacturer's name; (ii) Mailing address; (iii) Street address; (iv) Phone number; and (v) E-mail address.
(b) Manufacturer's authorized contact information:	(i) Name of the manufacturer's authorized contact; (ii) Mailing address; (iii) Street address; (iv) Phone number; and (v) E-mail address.
(c) If there is an agent, manufacturer's agent information:	(i) Name of the manufacturer's agent; (ii) Mailing address; (iii) Street address; (iv) Phone number; (v) E-mail address; and (vi) A signed and dated statement from the agent verifying agent status. The statement must include the following: "I certify that I represent (insert manufacturing company

	name) and I am authorized to prepare or direct the preparation of this application for registration. I attest, under penalty of law, that this document and all attachments are true, accurate, and complete."
(d) Water-tightness certification:	A signed and dated statement from the manufacturer or agent certifying their sewage tank is watertight at the point of manufacturing. The certification must include: (i) A description of the test method and identification of the person performing the test; or (ii) The facility certification from National Precast Concrete Association testing.
(e) A full set of design drawings with supporting calculations:	(i) Design drawings stamped by the design engineer. (ii) The design drawings meeting all the requirements in WAC 246-272C-0200.
(f) Installation instructions.	
(g) A description of the function of the sewage tank along with any known limitation on its use.	
(h) A design engineer's certification:	A signed and dated statement from the design engineer submitted with the design documents certifying the tank meets all standards and requirements in WAC 246-272C-0200 through 246-272C-0250.
(i) Proprietary product manufacturer statement, if the tank is used with a proprietary product listed with the department:	A signed and dated statement from the proprietary product manufacturer: (i) Identifying the proprietary product model number; and (ii) Stating the tank drawings were reviewed and found acceptable for use with the specified proprietary product.
(j) Payment of all applicable fees.	

(2) **Cast-in-place tank:** The application for cast-in-place tank design and construction plan approval must include the following information:

- (a) Design drawings and supporting calculations stamped by a design engineer;
- (b) All tank design load limits including maximum traffic loading and earth loading;
- (c) Specific excavation, compaction, bedding, tank construction, and backfill requirements;
- (d) A signed and dated statement from the design engineer submitted with the design documents certifying the tank meets all standards and requirements of WAC 246-272C-0200 through 246-272C-0250; and
- (e) A signed and dated statement from the proprietary product manufacturer identifying the proprietary product model number, and stating the tank drawings were reviewed and found acceptable for use with the specified proprietary product.

NEW SECTION

**WAC 246-272C-0130 Sewage tanks registered list requirements—Prefabricated tanks.** (1) Prefabricated tank registration expires on December 31st of the third year following initial registration.

(2) The department shall create and maintain the sewage tank registered list of prefabricated tanks built from approved design and construction plans including, but not limited to, the following:

- (a) Model numbers;
- (b) Tank sizes; and
- (c) Manufacturer information.

(3) The department shall update the sewage tank registered list at least annually, adding and removing prefabricated tank information as necessary to keep the list current.

(4) The department may remove prefabricated tanks from the sewage tank registered list if the department determines:

- (a) The prefabricated tank design and construction plans are changed to the extent a new application is required;
- (b) The manufacturer or agent fails to pay applicable registration fees;
- (c) The manufacturer or agent fails to renew registration pursuant to the requirements of WAC 246-272C-0140; or
- (d) There are problems with the prefabricated tank, including, but not limited to:

- (i) Noncompliance with the approved design and construction plan; or
- (ii) Structural failure not adequately addressed by the manufacturer or design engineer.

(5) A manufacturer or agent with prefabricated tanks on the sewage tank registered list shall:

- (a) Notify the department in writing of changes in contact information between registration renewal periods;
- (b) Notify the department in writing of changes to the design and construction of a registered tank;
- (c) Submit updated prefabricated tank design and construction plans for department review and approval when required by the department;
- (d) Reapply by submitting a complete application to the department according to the registration requirements of WAC 246-272C-0120 each time a design change is made that materially affects the integrity of the prefabricated tank or the tank's performance;
- (e) Pay the annual fee; and
- (f) Pay any design and construction plan review fee if the department requires new design and construction plan review and approval.

NEW SECTION

**WAC 246-272C-0140 Sewage tank registered list renewals.** (1) All prefabricated tank renewal registrations expire on December 31st of the third year of registration.

(2) All prefabricated tank renewal applications must be received by the department no later than October 31st of the year the registration expires.

(3) An applicant may apply for a prefabricated tank registration renewal with the department by submitting:

(a) A completed and signed renewal application in the format required by the department;

(b) A signed certification fully describing all changes that occurred over the last three years and verifying that none of the changes materially affect the integrity of the sewage tank or the sewage tank's performance; and

(c) Any required fee payment. If the department receives a complete renewal application after October 31st but before December 31st of the year the registration expires, the manufacturer shall also pay a late fee.

(4) As part of the prefabricated tank registration renewal process:

(a) The department shall consider data or comments on tank performance from local health officers, utilities, or other sewage tank users received by October 31st of the year the registration expires. These comments may include concerns about a variety of issues such as product function, product reliability, and problems arising with operation and maintenance;

(b) The department shall notify the manufacturer or agent of comments received; and

(c) The manufacturer shall respond to comments within thirty days of receipt.

(5) The department shall review the prefabricated tank renewal application and provide comments to the manufacturer within sixty days of receipt.

(6) Once reviewed, the department shall approve the renewal application except when:

(a) The department does not receive a completed renewal application by December 31st, the department shall remove the affected sewage tank model number, size, and other information from the registered list no earlier than sixty days after the expiration date.

(b) The manufacturer does not submit information in response to comments;

(c) The department determines the information provided by the manufacturer does not satisfactorily address comments; or

(d) Changes to the design and construction plans materially affect the integrity of the sewage tank, its performance, or differ substantially from the original approval.

(7) Sewage tank model and size removed from the sewage tank registered list are no longer eligible for:

- (a) The registered list renewal process;
- (b) Sale in Washington; and
- (c) Installation in Washington.

(8) A manufacturer or agent who fails to renew a prefabricated tank registration according to the requirements of this section may reapply for registration following the registration requirements in WAC 246-272C-0120.

NEW SECTION

**WAC 246-272C-0150 Transition from the approved on-site sewage tanks list to the sewage tank registered list.**

(1) The department shall phase-out the approved on-site sewage tanks list and switch to the sewage tank registered list described in WAC 246-272C-0130.

(a) After December 31, 2009, no sewage tank information will be added to the approved on-site sewage tanks list.

(b) The approved on-site sewage tanks list remains in effect through December 31, 2011.

(2) Between January 1, 2010, and December 31, 2011, the department or local health officer may allow the use of prefabricated tanks from either list.

(3) Manufacturers may submit applications pursuant to the registration requirements in WAC 246-272C-0120 starting January 1, 2010. Applications submitted to the department no later than July 1, 2011, will be reviewed, and if approved, included on the sewage tank registered list by January 1, 2012.

(4) Starting January 1, 2012, a prefabricated tank manufacturer or agent shall comply with the registration requirements of WAC 246-272C-0130.

(5) Starting January 1, 2012, the department or local health officer shall allow use of only prefabricated tanks from the sewage tank registered list.

#### NEW SECTION

**WAC 246-272C-0160 Post-construction cast-in-place tank requirements.** If the department approves the design and construction plan and authorizes construction, the design engineer shall:

(1) Conduct a post-construction inspection of the completed cast-in-place tank;

(2) Verify all applicable requirements were satisfied;

(3) Verify all excavation, backfill, and compaction conform to the project's approved design and construction plan and specifications; and

(4) Verify construction is complete and submit a construction certification to the department prior to use.

#### **DESIGN AND CONSTRUCTION REQUIREMENTS**

#### NEW SECTION

**WAC 246-272C-0200 Design drawing requirements for sewage tanks.** (1) The design engineer shall submit calculations to the department that demonstrate the tank withstands all structural, hydraulic, hydrostatic, earth, and any anticipated traffic loads, including, but not limited to, those loads specified in WAC 246-272C-0210. The drawings must specify and show in an obvious place the tank design load limits, including the maximum traffic loading and earth loading.

(2) Drawings of the sewage tank must be complete and show all dimensions, capacities, reinforcement, structural calculations, and other data requested by the department. The drawings must be drawn to scale and show:

(a) A side section view of the tank with details on inlets, outlets, and any intercompartmental devices;

(b) Material specifications;

(c) A plan and side section view of the tank showing the dimensions, including thickness of various portions of the tank;

(d) Reinforcement details;

(e) The size and location of all inspection and maintenance access, and inlet and outlet openings in the tank;

(f) The number of compartments;

(g) The liquid capacity of each compartment in the tank; and

(h) The excavation, backfill, compaction, depth of bury, bedding and installation requirements.

#### NEW SECTION

**WAC 246-272C-0210 General design and construction requirements—Sewage tanks.** (1) **Sewage tank loads.** Sewage tanks must be designed and constructed to withstand all structural, hydraulic, hydrostatic, earth loads, and any anticipated traffic loads. They must be designed and constructed so they:

(a) Do not collapse, deform, or crack when subjected to the anticipated loads when the tanks are either full or empty;

(b) Support a dead load equivalent to at least three feet of earth cover with a unit density of at least 110 lb/ft<sup>3</sup> and a 2,500 lb<sub>f</sub>/wheel load concentration over the critical elements of the tank. Tanks installed with more than three feet of earth cover must be reinforced to support the additional load;

(c) Account for minimum hydrostatic load of 62.4 lbs/ft<sup>3</sup> and support earth backfill and hydrostatic pressures. Minimum lateral load calculations must include pressures due to effective weight of adjacent earth backfill and hydrostatic loads assuming the water table is at ground level;

(d) Allow for septage pumping during high ground water conditions. Internal hydrostatic pressures must be included in the calculations to allow for septage pumping during high ground water conditions assuming a water table is at ground level;

(e) Counteract buoyancy effects, assuring an adequate flotation safety factor in high ground water areas. The design engineer shall submit to the department calculations to demonstrate the tank's ability to counteract buoyancy effects and include this information as part of the sewage tank installation instructions; and

(f) Withstand a wheel load of 16,000 lb<sub>f</sub>/wheel with fourteen feet axle spacing consistent with a HS20-44 loading as designated by AASHTO, if designed as a "traffic bearing tank."

(2) **Construction materials.** Sewage tanks must be designed and constructed of solid, durable and watertight materials that do not corrode or decay. Steel sewage tanks are prohibited. Acceptable materials include:

(a) Concrete for cast-in-place tanks; and

(b) Concrete, fiberglass, polyethylene or other solid, durable, watertight material that does not corrode or decay for prefabricated tanks.

(3) **Connections and components.** Sewage tanks must be designed and constructed using structurally sound and watertight access connections or components, either into the tank or through the tank's walls. Sewage tank connections and related components include:

(a) Inlet and outlet fixtures;

(b) Electrical conduits; and

(c) Access ports, inspection ports, and risers.

(4) **Inlets, outlets, and intercompartmental fittings or baffles.**

(a) Sewage tank inlets, outlets, and intercompartmental fittings must:

(i) Provide effective scum storage and sludge retention; and

(ii) Be constructed of a durable material and attached to the walls of the tank in a secure and corrosion resistant fashion.

(b) All inlet and outlet devices must have sanitary tees constructed of:

(i) PVC conforming to or exceeding the requirements of ASTM D 3034; or

(ii) ABS conforming to or exceeding the requirements of ASTM D 2680.

(c) All sanitary tees must have a minimum of four inches inside diameter. For a larger capacity tank, the diameter must be greater to accommodate the design flow.

(d) Concrete baffles are allowed if cast with the tank pour. Concrete baffles installed after the tank has been poured are not allowed.

(5) **Seals and gaskets.** Seals and gaskets for inlet, outlet, and intercompartmental fittings must be resilient, watertight, corrosion-resistant, and flexible. Seals meeting ASTM C-1644, or equivalent must be used to join the tank wall and the PVC piping to prevent leakage at the wall connection.

(6) **Water-tightness.** Sewage tanks must be watertight and prevent surface drainage and ground water from entering into the tank or connected chambers. To ensure the entire on-site sewage system is watertight, the department and local health officers are encouraged to test sewage tanks in the field at installation.

(7) **Air space and venting.** Sewage tanks must provide air space to allow gases to vent through the main building sewer vent or other plumbing vent stacks to the atmosphere.

(a) Air space must be above the liquid surface in the tank back and through the tank's inlet.

(b) Sewage tanks must maintain at least a one-inch air space between the underside of the top of the tank and the top of any of the inlet, outlet, or intercompartmental fitting to vent gases.

(c) Sewage tanks that do not adequately vent through the building plumbing vent stacks must:

(i) Use a carbon-filtered vent above the ground surface; or

(ii) Bury the end of the vent in a gravel trench in a manner adequate to prevent infiltration from ground water or surface water.

(d) Use another sewage tank venting method approved by the department according to the requirements under WAC 246-272C-0500.

(8) **Confined space.** Designs must take into account whether the space is a confined space. Confined spaces must comply with the department of labor and industries' requirements in chapter 296-809 WAC, Confined spaces.

(9) **Forms or processes.** Manufacturers of prefabricated tanks may use any form or process to construct the tank, provided the tank meets or exceeds the standards and requirements in this section through WAC 246-272C-0250.

(10) **Coatings.** Coatings, sealants or liners may be added to the inside or outside of the sewage tanks to enhance corrosion protection and water-tightness of the tanks. All coatings, sealants, or liners must be rated and warranted by the manufacturer for use with sewage or sewage effluent.

(11) **Access openings and risers.** Access openings must be large enough for a person with equipment to easily clean, maintain, remove, and replace sewage tank components.

(a) The minimum diameter of the sewage tank opening must be:

(i) Eighteen inches for tanks with a liquid volume of less than or equal to two thousand gallons; and

(ii) Twenty inches for tanks with a liquid volume greater than two thousand gallons.

(b) Maximum distance between access points on a tank must be ten feet center-to-center.

(c) Access openings must be located above the inlet and the outlet.

(d) Access openings must be located directly above any pumping or dosing equipment, or effluent screen or filter.

(e) Risers must be a minimum of twenty-three inches in diameter.

(f) Connection of the riser to the tank and the connection of additional riser sections must incorporate joint grooves or adapters to prevent lateral movement and to remain watertight.

(g) Access and riser openings must be covered with a lockable lid or other type of secured lid to prevent unauthorized entry.

(h) Access risers and lids must be structurally sound to withstand the anticipated site-specific load conditions of the riser.

#### NEW SECTION

**WAC 246-272C-0220 Additional requirements for septic tanks.** (1) **Septic tank compartments.** Septic tanks must be designed and constructed with a minimum of two compartments. This standard may be met by one tank with two compartments or by two single compartment tanks in series.

(a) The first compartment must consist of at least one half but no more than two thirds of the total required liquid volume; and

(b) The second compartment must consist of the remaining total required liquid volume.

(2) **Septic tank inlets.** Septic tank inlets must meet the following:

(a) The inlet sanitary tee or baffle extends at least eight inches downward below the liquid level;

(b) The inlet sanitary tee or baffle extends above the liquid surface at least to the crown of the inlet pipe; and

(c) The invert of the inlet pipe is a minimum of two inches above the invert of the tank outlet.

(3) **Septic tank outlets.** Septic tank outlets must meet the following:

(a) The outlet sanitary tee or baffle extends below the liquid level at least thirty percent, but not more than forty percent of the liquid depth for tanks with straight vertical sides;

(b) The outlet sanitary tee or baffle extends below the liquid level at least twenty-five percent, but not more than thirty-five percent of the liquid depth in horizontal cylindrical tanks; and

(c) The outlet sanitary tee extends sufficiently to allow scum storage and venting, and to a point not less than one



inch from the underside of the top of the tank. The outlet tee may extend into the riser for venting.

(4) **Septic tank effluent screens or filters.** Septic tanks must be designed and constructed to accommodate effluent screening devices or filters. The department and local health officers are encouraged to evaluate effluent screen or filter use on a case-by-case basis during the on-site sewage system design phase. Specific effluent screen or filter criteria or requirements, if any, are included under chapter 246-272A or 246-272B WAC.

(5) **Septic tank intercompartmental wall fittings.**

(a) The septic tank must have intercompartmental wall fittings that extend below the liquid level at least:

(i) Thirty percent, but not more than forty percent of the liquid depth for tanks with straight vertical sides; or

(ii) Twenty-five percent, but not more than thirty-five percent of the liquid depth in horizontal cylindrical tanks.

(b) Slots or ports may be used as intercompartmental fittings.

(i) The location of the slot or port must be at the same depth as the bottom of outlet tees or baffles; and

(ii) The opening must have a minimum area of twelve square inches with a minimum vertical dimension of three inches.

(6) **Septic tank intercompartmental walls.** The septic tank must have intercompartmental walls that:

(a) Restrict solids from moving from one compartment to the other except through the intercompartmental wall fittings; and

(b) Withstand pumping of the adjacent compartment without risking structural damage or functional failure.

(7) **Septic tank scum storage.** The septic tank must allow air space volume for scum storage of at least ten percent of the liquid volume of the tank. The department may approve an increase or decrease in the air space requirements according to the requirements under WAC 246-272C-0500.

(8) **Septic tank length to width ratio.**

(a) The length of a septic tank with a liquid capacity less than three thousand gallons must be a minimum of 1.25 times the width.

(b) The length of septic tanks with a liquid capacity greater than or equal to three thousand gallons must be a minimum of 1.5 times the width.

(9) **Septic tank liquid capacity depth.** Septic tanks must contain a liquid depth of not less than three feet.

#### NEW SECTION

**WAC 246-272C-0230 Additional requirements for grease interceptor tanks.** (1) **Grease interceptor compartments.** Grease interceptor tanks must be designed and constructed with a minimum of two compartments. This standard may be met by one tank with two compartments or by two single compartment tanks in series.

(a) The first compartment must consist of at least one half but no more than two thirds the total required liquid volume; and

(b) The second compartment must consist of the remaining total required liquid volume.

(2) **Grease interceptor inlets.** Grease interceptors must have inlets that meet the following:

(a) The sanitary tee or baffle must extend into the liquid a distance within eighteen inches from the bottom of the tank;

(b) The sanitary tee or baffle must extend above the liquid surface at least to the crown of the inlet pipe; and

(c) The invert of the inlet pipe must be a minimum of two inches above the invert of the tank outlet.

(3) **Grease interceptor outlets.** Grease interceptors must have outlets that provide for adequate grease storage and the outlet sanitary tee or baffle must extend:

(a) Into the liquid to a point between six inches and twelve inches from the bottom of the tank; and

(b) Above the liquid level sufficiently to allow scum storage and venting, and to a point not less than one inch from the underside of the top of the tank. The outlet tee may extend into the riser for venting.

(4) **Grease interceptor intercompartmental wall fittings.**

(a) All grease interceptor intercompartmental wall fittings must extend into the liquid to a point between six inches and twelve inches from the bottom of the tank.

(b) If slots or ports are used as intercompartmental fittings:

(i) The location of the slot or port must be at the same depth as the bottom of outlet tees or baffles; and

(ii) The opening must have a minimum area of twelve square inches with a minimum vertical dimension of three inches.

(5) **Grease interceptor intercompartmental walls.** Grease interceptor intercompartmental walls must:

(a) Restrict solids from moving from one compartment to the other except through the intercompartmental wall fittings; and

(b) Withstand pumping of the adjacent compartment without risking structural damage or functional failure.

(6) **Grease interceptor tank liquid depth.** Grease interceptor tanks must contain a liquid depth of not less than three feet.

#### NEW SECTION

**WAC 246-272C-0240 Additional requirements for pump tanks.** (1) A sanitary tee or baffle is required when effluent is pumped into the pump tank.

(2) The sanitary tee or baffle for a pump tank must meet the following requirements:

(a) The inlet sanitary tee or baffle must be installed on the inlet of the pump tank; and

(b) The inlet sanitary tee or baffle must extend into the tank a minimum of eight inches below the invert elevation of the inlet pipe.

#### NEW SECTION

**WAC 246-272C-0245 Additional requirements for trash tanks.** (1) Trash tanks must be designed and constructed for use as a pretreatment tank or compartment.

(2) Trash tank volume must not be used as part of the calculations of the required septic tank volume.

NEW SECTION

**WAC 246-272C-0250 Identification.** Manufacturers shall permanently identify each sewage tank. The manufacturer shall display the following information on the top of each tank near the inlet end of the tank or inside the riser if the riser is cast in the tank:

- (1) Manufacturer name or logo;
- (2) The tank's liquid capacity in gallons;
- (3) Maximum burial depth;
- (4) The date manufactured or constructed; and
- (5) The tank model number or serial number, if available.

**WAIVERS, COMPLIANCE, AND ENFORCEMENT**NEW SECTION

**WAC 246-272C-0500 Waiver of state regulations.** (1) The manufacturer or agent, or the design engineer may request a waiver in writing, stating the reason for the waiver.

(2) The department may grant a waiver request if it is consistent with the applicable standards and intent of these rules.

(3) If the department approves a waiver request, the department shall notify the requestor of the decision in writing.

(4) If the department denies a waiver request, the department shall notify the requestor of the decision in writing stating the reasons for the denial.

NEW SECTION

**WAC 246-272C-0520 Enforcement.** (1) The department shall enforce the provisions of this chapter.

(2) When a person violates the provisions under this chapter, the department or office of the attorney general may initiate enforcement or disciplinary actions, or any other legal proceeding authorized by law including, but not limited to, any one or a combination of the following:

(a) Informal administrative conferences, convened at the request of the department or tank manufacturer, to explore facts and resolve problems;

(b) Orders directed to the tank manufacturer or person causing or responsible for the violation of this chapter;

(c) Denial, suspension, modification, or revocation of approvals, registrations, or certification;

(d) The penalties under RCW 43.70.190; and

(e) Civil or criminal action.

(3) Orders authorized under this section include the following:

(a) Orders requiring corrective measures; and

(b) Orders to stop work or to stop sales of sewage tanks until the manufacturer obtains all certifications and approvals required by rule or statute.

(4) Enforcement orders issued under this section must:

(a) Be in writing;

(b) Name the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting the violation and the rule or statutory citation;

(d) Specify any required corrective action, if applicable;

(e) Specify the effective date of the order, with a timeline of compliance;

(f) Provide notice of the consequences of failure to comply or repeated violation, as appropriate;

(g) Provide the name, business address, and phone number of the department staff person who may be contacted regarding an order.

(5) Enforcement orders issued under this section may include a statement that continued or repeated violation may subject the violator to:

(a) Denial, suspension, or revocation of approval or registration;

(b) Referral to the office of attorney general; or

(c) Other appropriate remedies.

(6) Enforcement orders must be personally served in the manner of service of a summons in a civil action or in a manner showing proof of receipt.

(7) The department shall have cause to deny the application or reapplication, or to revoke, suspend, or modify registrations or approvals of any person who:

(a) Fails or refuses to comply with the provisions of this chapter, or any other statutory provision;

(b) Obtains or attempts to obtain a required certificate or approval by fraud or misrepresentation; or

(c) Manufactures or constructs a tank which structurally fails or collapses.

NEW SECTION

**WAC 246-272C-0540 Notice of decision—Adjudicative proceeding.** (1) The department shall provide notice of the denial, suspension, modification, or revocation of a registration, certification, or approval consistent with RCW 43.70.115, chapters 34.05 RCW and 246-10 WAC.

(2) A person contesting a departmental decision regarding a registration, certificate, or approval may file a written request for an adjudicative proceeding consistent with chapter 246-10 WAC.

**SEVERABILITY**NEW SECTION

**WAC 246-272C-0650 Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected.