

WSR 10-13-020
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 4, 2010, 11:21 a.m., effective July 5, 2010]

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

Purpose: We proposed two changes to WAC 392-121-136. First, the new rule change would limit a student's enrollment to a 2.0 FTE. Secondly, this change would establish the basis of claiming summer school enrollment in skill centers that would align better with the nonmonthly schedule that skill centers programs are offered during the summer.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-136.

Statutory Authority for Adoption: RCW 28A.150.-290(1).

Adopted under notice filed as WSR 10-09-026 on April 13, 2010.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 27, 2010.

Randy Dorn
 State Superintendent

AMENDATORY SECTION (Amending WSR 09-01-172, filed 12/23/08, effective 1/23/09)

WAC 392-121-136 Limitation on enrollment counts. Enrollment counts pursuant to WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in (a), (b) and (c) of this subsection, no student, including a student enrolled in more than one school district, shall be counted as more than one full-time equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(a) School districts operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the ~~((first school day of July of each year))~~ aggregate of enrolled hours based upon the fourth day of each summer session. Each district operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term(s) ~~((based upon the July~~

~~enrollment data))~~ subject to the limitation in (c) of this subsection.

(b) Enrollment count limitations apply separately to a student's running start, skills center and high school enrollments and is limited to an overall maximum 2.0 FTE.

(c) Subject to (b) of this subsection, a student enrolled in a skill center program during the regular school year may be claimed for up to a combined 1.6 full-time equivalent student.

~~((A))~~ Each student ~~((can))~~ may be claimed for a maximum of a 1.0 full-time equivalent for the skills center enrollment and a maximum of a 1.0 full-time equivalent for the student's high school enrollment subject to the overall 1.6 FTE maximum.

(2) Running start enrollment counts are limited as provided in chapter 392-169 WAC and specifically as provided in WAC 392-169-060.

(3) The full-time equivalent reported for a five year old preschool student with a disability is limited as provided in WAC 392-121-137.

(4) No kindergarten student, including a student enrolled in more than one school district, shall be counted as more than one-half of an annual average full-time equivalent student in any school year.

(5) A student reported as part-time on Form SPI E-672 shall not be reported by a school district for more than part-time basic education funding on that enrollment count date and the total enrollment reported by one or more school districts for basic education and on Form SPI E-672 must not exceed one full-time equivalent.

(6) Districts providing an approved state-funded full-day kindergarten program as provided in chapter 28A.150 RCW (from E2SSB 5841) may claim up to an additional 0.50 FTE based upon student enrolled hours in excess of the 0.50 FTE provided under subsection (4) of this section.

WSR 10-13-038

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 8, 2010, 10:22 a.m., effective July 9, 2010]

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

Purpose: Chapter 3, Laws of 2009 adopted a new statute, RCW 50.22.155, which modified the training benefits program for unemployment insurance claimants. Amendments and adoption of new regulations are made to chapter 192-270 WAC, Training benefits, to implement these changes. The rules update statutory references, clarify the criteria for approval of training plans, and adopt new sections to implement the 2009 statutory changes.

Citation of Existing Rules Affected by this Order: Amending WAC 192-270-010, 192-270-015, and 192-270-050.

Statutory Authority for Adoption: RCW 50.12.010, 50.-12.040, and 50.20.010.

Adopted under notice filed as WSR 10-08-111 on April 7, 2010.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 3, Repealed 0.

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

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

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

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

Date Adopted: May 21, 2010.

Paul Trause
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-010 Employment separations for dislocated workers—RCW 50.22.155. To be eligible for training benefits as a dislocated worker, you must have been terminated or received a notice of termination from your employer ((to be eligible for training benefits)). Training benefits are not available if you left work voluntarily as provided in RCW 50.20.050, regardless of whether you had good cause for leaving, or if you are disqualified from benefits for work-related misconduct under RCW 50.20.060 or RCW 50.20.066, and have not requalified for benefits.

When ~~((determining))~~ deciding whether your separation from employment makes you eligible for training benefits, the department will look at the last job you held for a period of at least seven weeks ~~((that was))~~ in employment covered by Title 50 RCW or the comparable laws of another state.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-015 Dislocated workers—Unlikely to return to employment—RCW 50.22.155 (2)(a) and RCW 50.04.075. Except as provided in ~~((RCW 50.22.150(3)))~~ RCW 50.22.155(6), the term "unlikely to return to employment" means, but is not limited to, situations where:

(1) You have:

- (a) Become unemployed due to a permanent plant closure;
- (b) Received a federal WARN act notice; or
- (c) Received a notice of indefinite layoff as a result of a permanent reduction of operations at your place of employment; and

(2) Suitable work for individuals with your skills is in diminishing demand within your labor market.

NEW SECTION

WAC 192-270-017 Military veterans—RCW 50.22.155 (2)(b)(ii). (1) The term "during the twelve-month period" means the individual served in the United States mil-

itary or Washington National Guard at any point during the twelve-month period prior to application date.

(2) The term "application date" means the date on which the individual filed an initial application for unemployment benefits.

NEW SECTION

WAC 192-270-018 Members of the Washington National Guard—RCW 50.22.155 (2)(b)(iii). The term "currently serving" does not include reserve members of the Washington National Guard.

NEW SECTION

WAC 192-270-019 Disabled individuals—RCW 50.22.155 (2)(b)(iv). (1) For purposes of this section:

(a) "Injury" means a trauma to the integrity or function of a tissue or organ and the resulting physical conditions;

(b) "Illness" means a condition marked by an obvious deviation from the normal healthy state, characterized by sickness, disease, or other disorder. Alcohol abuse, drug abuse, antisocial behavior, or criminal history alone, or your commitment to a treatment facility, is insufficient by itself to show "illness" within the meaning of this section.

(2) Verification of your injury or illness may, at the department's discretion, require verification from a physician.

NEW SECTION

WAC 192-270-047 Incomplete applications. An application that is incomplete will be returned to you for completion. The filing of an incomplete application does not extend the timeframes under WAC 192-270-035 for filing a completed application for training benefits.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

WAC 192-270-050 Criteria for approving training plans. (1) The department will consider the following factors when reviewing your application for training benefits:

(a) Whether you have a current benefit year as required by RCW 50.22.010(9);

(b) ~~((Whether suitable employment is available in the labor market in which you currently reside (if you were originally determined to be a dislocated worker, but moved from the area where your skills were declining to an area where your skills are in demand, you are not eligible for training benefits);~~

~~((+))~~ Your plan for completion of the training including, but not limited to, ~~((what))~~ the financial resources you intend to use to ~~((fund the))~~ complete your training ~~((plan))~~ when training benefits run out;

~~((+))~~ (c) Whether you have the qualifications and aptitudes to successfully complete the training;

~~((+))~~ (d) For each of the following categories of workers:

(i) Dislocated workers under RCW 50.22.155 (2)(a): Whether suitable employment is available in the labor market

in which you currently reside and whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your earning power would be if training were not provided. If you were originally determined to be a dislocated worker, but moved from the area where your skills were declining to an area where your skills are in demand, you are not eligible for training benefits.

(ii) **Low income workers under RCW 50.22.155 (2)(b)(i):** Whether vocational training is likely to enhance your earning potential. This consists of training for a career in a demand occupation that will help you obtain and maintain stable, quality employment.

(iii) **For military veterans, current members of the Washington National Guard, and disabled individuals under RCW 50.22.155 (2)(b)(ii), (iii) and (iv):** Whether training is needed to assist you in finding suitable work in your labor market.

(e) Whether the training relates to a high demand occupation (~~(-meaning)~~).

(i) For claims with an effective date prior to April 5, 2009, "high demand" means that the number of job openings in the labor market for the occupation or with that skill set exceeds the supply of qualified workers.

(ii) For claims with an effective date on or after April 5, 2009, "high demand" means an occupation with a substantial number of current or projected employment opportunities;

(f) Whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your employment prospects would be if training were not approved; and

(g) ((Effective July 1, 2001,)) Whether the educational institution and training program meet((s)) the performance criteria established by the workforce training and education coordinating board.

(2) Academic training may be approved if it meets the criteria of subsection (1) and it meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

(3) The department may approve educational training that has been identified as necessary by the training facility as a prerequisite to a vocational training program that meets the criteria of subsection (1).

~~((4) In the case of individuals with physical or sensory disabilities, or in other unusual circumstances, a written decision of the commissioner may waive any of the requirements of this section on an individual basis.))~~

WSR 10-13-039

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed June 8, 2010, 1:14 p.m., effective July 9, 2010]

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

Purpose: Revision of WAC 308-300-160 Total fee payable—Handling of fees; and deletion of WAC 308-300-075 Handling fee.

WAC 308-300-160, to add credit and debit card payment options when submitting a master business application on-

line or in person. To align rule with current business practices. Identifies handling fees that are not refundable.

WAC 308-300-075, to remove an obsolete rule that contains inaccurate policy and handling fee inconsistent with RCW 19.02.075.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-300-075; and amending WAC 308-300-160.

Statutory Authority for Adoption: RCW 19.02.030(3).

Adopted under notice filed as WSR 10-09-096 on April 21, 2010.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

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

Date Adopted: June 8, 2010.

Walt Fahrner
Rules Coordinator

AMENDATORY SECTION (Amending Order 476-DOL, filed 12/30/77)

WAC 308-300-160 Total fee payable—Handling of fees. (1) The ~~((total))~~ fee payable ~~((shall))~~ will be the total amount of all individual license fees, late filing fees, other penalty fees, ~~((and the industrial insurance premium deposit on original application, if applicable. Payment shall be by check or money order, payable to the department of licensing at the time of application))~~ and handling fees, and may include additional fees charged to cover credit or debit card processing.

(2) ~~((The total fee payments in subsection (1) will be deposited within one working day of receipt by the department into an undistributed receipts account. The amount of the total fee payment attributable to the assigned initial risk classification and resulting industrial insurance premium deposit will be transferred to the account of the department of labor and industries. An itemization of the amounts received from each applicant and pertinent application information will be transmitted to the department of labor and industries.~~

~~((3))~~ The department will distribute the fees received for individual licenses issued or renewed ~~((at least once a month))~~ to the appropriate agencies on an established schedule. ~~((Liquor license fees and fees received for other licenses for which the appropriate agency has withheld notification of approval or denial will be held in the undistributed receipts account of the department until those licenses are issued or denied.~~

~~(4))~~ (3) The master license will not be issued until the full amount of the total fee payable is collected. When the fee payment received is less than the total fee payable, the department will bill the applicant for the balance.

~~((5))~~ (4) The master license service application and renewal handling fees collected under RCW 19.02.075 are not refundable. When ~~((an individual))~~ a license is denied or when an applicant withdraws an application, a refund ~~((shall))~~ of any other refundable portion of the total payment will be made ~~((if authorized by the appropriate agency))~~ in accordance with the applicable licensing laws.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-300-075 Handling fee.

WSR 10-13-046
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 9, 2010, 8:17 a.m., effective July 10, 2010]

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

Purpose: The community services division is amending WAC 388-444-0030 Work requirements for persons who are able-bodied adults without dependents (ABAWDs), to extend the current ABAWD time limit for benefits from September 30, 2010, to September 30, 2011.

Citation of Existing Rules Affected by this Order: Amending WAC 388-444-0030.

Statutory Authority for Adoption: RCW 74.04.050, 74.-04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, and 74.08A.120.

Other Authority: American Recovery Investment Act [of] 2009.

Adopted under notice filed as WSR 10-09-047 on April 15, 2010.

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

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

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

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

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

Date Adopted: June 9, 2010.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-14-018, filed 6/22/09, effective 7/23/09)

WAC 388-444-0030 Work requirements for persons who are able-bodied adults without dependents (ABAWDs). (1) Able-bodied adults without dependents (ABAWDs) are age eighteen to fifty and have no dependents. They must, unless determined exempt, participate in specific employment and training activities to receive food assistance.

(2) Nonexempt ABAWDs who fail to participate may continue to receive food assistance until September 30, ~~((2010))~~ 2011.

(3) Beginning October 1, ~~((2010))~~ 2011, an ABAWD is not eligible to receive food assistance for more than three full months in a thirty-six month period, except as provided in WAC 388-444-0035, unless that person:

(a) Works at least twenty hours a week averaged monthly; or

(b) Participates in and complies with the requirements of a work program for twenty hours or more per week; or

(c) Participates in a workfare program as provided in WAC 388-444-0040.

(4) A work program is defined as a program under:

(a) The Job Training Partnership Act (JTPA);

(b) Section 236 of the Trade Act of 1974; or

(c) A state-approved employment and training program.

WSR 10-13-047
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 9, 2010, 8:29 a.m., effective August 1, 2010]

Effective Date of Rule: August 1, 2010.

Purpose: The community services division is amending WAC 388-408-0035 Who is in my assistance unit for Basic Food?, 388-489-0015 How long will my family receive transitional food assistance?, 388-489-0020 Am I required to report changes in my household's circumstances while on transitional food assistance?, and chapter 388-489 WAC, to establish a new section WAC 388-489-0022 What happens if I reapply for Basic Food while receiving transitional food assistance?

The amendments, and new section to chapter 388-489 WAC, will establish eligibility and certification requirements for transitional food assistance to be consistent with federal regulations published on January 29, 2010, for the Farm Security and Rural Investment Act of 2002.

Citation of Existing Rules Affected by this Order: Amending WAC 388-408-0035, 388-489-0015, and 388-489-0020.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.010, and 74.08A.903.

Adopted under notice filed as WSR 10-09-054 on April 16, 2010.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 3, Repealed 0.

Date Adopted: June 9, 2010.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-19-061, filed 9/16/05, effective 11/1/05)

WAC 388-408-0035 Who is in my assistance unit for Basic Food? (1) For Basic Food, a person must be in your assistance unit (AU) if they live in the same home as you and:

- (a) Regularly buy food or prepare meals with you; or
- (b) You provide meals for them and they pay less than a reasonable amount for meals.

(2) If the following people live with you, they must be in your AU even if you do not usually buy or prepare food together:

- (a) Your spouse;
- (b) Your parents if you are under age twenty-two (even if you are married);
- (c) Your children under age twenty-two;
- (d) The parent of a child who must be in your AU;
- (e) A child under age eighteen who doesn't live with their parent unless the child:
 - (i) Is emancipated;
 - (ii) Gets a TANF grant in their own name; or
 - (iii) Is not financially dependent on an adult in the AU because they get and have control of income of at least the TANF payment standard under WAC 388-478-0020(2) before taxes or other withholdings.

(3) If any of the people in subsections (1) or (2) already receive transitional food assistance under chapter 388-489 WAC, you can only receive benefits if they choose to reapply for Basic Food as described in WAC (~~388-489-0020~~) 388-489-0022.

(4) If you live in an institution where you may be eligible for Basic Food under WAC 388-408-0040, we decide who is in your AU as follows:

(a) If the facility is acting as your authorized representative under WAC 388-460-0015, we include you and anyone who must be in your AU under subsection (2) of this rule; or

(b) If you apply for benefits on your own, we include you, anyone who must be in your AU under subsection (2) of this rule, and other residents you choose to apply with.

(5) Anyone who must be in your AU under subsection (1) or (2) is an ineligible AU member if they:

(a) Are disqualified for an intentional program violation (IPV) under WAC 388-446-0015;

(b) Do not meet ABAWD work requirements under WAC 388-444-0030.

(c) Do not meet work requirements under WAC 388-444-0055;

(d) Do not provide a Social Security number under WAC 388-476-0005;

(e) Do not meet the citizenship or alien status requirements under chapter 388-424 WAC;

(f) Are fleeing a felony charge or violating a condition of parole or probation under WAC 388-442-0010.

(6) If your AU has an ineligible member:

(a) We count the ineligible member's income as part of your AU's income under WAC 388-450-0140;

(b) We count all the ineligible members resources to your AU; and

(c) We do not use the ineligible member to determine your AU's size for the maximum income amount or allotment under WAC 388-478-0060.

(7) If the following people live in the same home as you, you can choose if we include them in your AU:

(a) A permanently disabled person who is age sixty or over and cannot make their own meals if the total income of everyone else in the home (not counting the elderly and disabled person's spouse) is not more than the one hundred sixty-five percent standard under WAC 388-478-0060;

(b) A boarder. If you do not include a boarder in your AU, the boarder cannot get Basic Food benefits in a separate AU;

(c) A person placed in your home for foster care. If you do not include this person in your AU, they cannot get Basic Food benefits in a separate AU;

(d) Roomers; or

(e) Live-in attendants even if they buy or prepare food with you.

(8) If someone in your AU moves out of your home for at least a full issuance month, they are not eligible for benefits as a part of your AU, unless you receive transitional food assistance.

(9) For transitional food assistance, your TFA AU includes the people who were in your Basic Food AU for the last month you received:

(a) Temporary assistance for needy families;

(b) State family assistance; or

(c) Tribal TANF benefits.

(10) If someone received Basic Food or food stamps in another AU or another state, they cannot receive benefits in your AU for the same period of time with one exception. If you already received Basic Food, food stamp, or transitional food assistance benefits:

(a) In another state, you are not eligible for Basic Food for the period of time covered by the benefits you received from the other state; or

(b) In another AU, you are not eligible for Basic Food in a different AU for the same period of time;

(c) In another AU, but you left the AU to live in a shelter for battered women and children under WAC 388-408-0045, you may be eligible to receive benefits in a separate AU.

(11) The following people who live in your home are not members of your AU. If they are eligible for Basic Food, they may be a separate AU:

(a) Someone who usually buys and prepares food separately from your AU if they are not required to be in your AU; or

(b) Someone who lives in a separate residence.

(12) A student who is ineligible for Basic Food under WAC 388-482-0005 is not a member of your AU.

AMENDATORY SECTION (Amending WSR 05-19-060, filed 9/16/05, effective 11/1/05)

WAC 388-489-0015 How long will my ((family)) household receive transitional food assistance? If your Basic Food assistance unit is eligible for transitional food assistance according to WAC 388-489-0005, you will receive transitional food assistance for up to five months after your ((family)) household leaves temporary assistance for needy families.

(1) If you stopped getting temporary assistance for needy families from the department, you are eligible for transitional benefits beginning the month after your ((family)) household received their last grant.

(2) If you stopped receiving tribal TANF benefits, you are eligible for transitional benefits:

(a) With the next monthly issuance after we update your case to show you no longer have tribal TANF income, if the tribal TANF end date is the end of the current month or the end of a prior month; or

(b) On the first of the month following the tribal TANF end date, if the tribal TANF end date is the end of a future month.

(3) If necessary, we will extend or shorten your Basic Food assistance unit's current certification period to match the five-month transition period.

(4) You may choose to end your five-month transition period early by submitting an application for regular Basic Food under WAC ((388-489-0020)) 388-489-0022 or by asking us to terminate your benefits.

(5) We send you a notice before the end of your five-month transition period so you can reapply for regular Basic Food benefits and continue to receive benefits without interruption as described in WAC 388-434-0010.

(6) We may terminate your transitional food assistance early for the reasons stated in WAC 388-489-0025.

AMENDATORY SECTION (Amending WSR 05-19-060, filed 9/16/05, effective 11/1/05)

WAC 388-489-0020 Am I required to report changes in my household's circumstances while on transitional food assistance? (1) If you only receive transitional food

assistance, you are not required to report any changes in your household circumstances.

(2) If you receive benefits from another cash or medical assistance program, you must meet the reporting requirements for the other program as required by WAC 388-418-0005. Except for changes listed under WAC 388-489-0025, the changes you report for the other program will not affect your ((family's)) household's eligibility for transitional food assistance.

(3) If your ((family)) household experiences a change in circumstances during your five-month transition period, and you think that you may be eligible for more food assistance, you may submit an application for the regular Basic Food program under WAC 388-489-0022. Examples of such changes include the loss of income by a person who gets transitional food assistance with you or adding a new person to your household.

~~((a) If you submit a new application, we will determine your eligibility for Basic Food and allow you to choose if you want to remain on transitional food assistance or receive regular Basic Food benefits.~~

~~(b) If you choose to go back on Basic Food and are found eligible, we will start your new benefit amount on the first day of the month after we receive your application for Basic Food. If you have already received transitional food assistance for this month and are eligible for more assistance on the Basic Food program, we will pay you the additional amount.)~~

NEW SECTION

WAC 388-489-0022 What happens if I reapply for Basic Food while receiving transitional food assistance?

(1) You can choose to reapply for Basic Food at any time during your TFA period. If you submit an application for Basic Food, we will:

(a) Interview you according to WAC 388-452-0005.

(b) Send you a letter if we need additional information and give you at least ten days to provide the information according to WAC 388-458-0020.

(c) Process your application within thirty days. We will keep your TFA active while your request for Basic Food is pending.

(d) Process your application according to WAC 388-434-0010 if your application was submitted in the last month of your TFA period.

(2) If you are eligible for Basic Food, we tell you the amount you will receive and allow you to choose if you want Basic Food or continue your TFA.

(3) If you choose to go back on Basic Food, we will start your new benefit amount on the first day of the month after we receive your application for Basic Food. If you already received transitional food assistance for this month and are eligible for:

(a) More assistance on Basic Food, we will pay you the additional amount.

(b) Less assistance on the Basic Food, you will have to pay back the additional amount.

(4) If you choose to go back on Basic Food and receive less assistance, we do not have to give you advance notice.

(5) If we are unable to approve your request for Basic Food, we will deny your application and continue your TFA through the end of your transitional period, unless you become ineligible for TFA under WAC 388-489-0025.

WSR 10-13-048
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 9, 2010, 10:18 a.m., effective July 10, 2010]

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

Purpose: These rule revisions will provide greater consistency in the optional reporting of staff changes and enrollment changes, for purposes of calculating the state-required certificated instructional staff ratio (46:1000) compliance.

The removal of September 30 as the deadline for optional reporting of staff and enrollment changes will better align these optional reporting processes with the required S-275 staff reporting and required P-223 enrollment reporting processes.

For the 2011–12 school year and thereafter, limiting the school district to the selection of a different enrollment month, other than the default month of October, when all basic education instructional programs are operating will provide a more valid staff ratio calculation.

Citation of Existing Rules Affected by this Order: Amending WAC 392-127-085 and 392-127-090.

Statutory Authority for Adoption: RCW 28A.150.-290(1).

Adopted under notice filed as WSR 10-08-024 on March 30, 2010.

Changes Other than Editing from Proposed to Adopted Version: Delayed limiting the school district to the selection of a different enrollment month when all basic education instructional programs are operating, from the 2010-11 school year to the 2011-12 school year to accommodate school districts' requests for more time to implement this change.

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

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

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

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

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

Date Adopted: May 11, 2010.

Randy Dorn
State Superintendent

AMENDATORY SECTION (Amending WSR 00-02-064, filed 1/3/00, effective 2/3/00)

WAC 392-127-085 School district reporting—Optional report—Staff changes. At any time prior to ~~((September 30 following the end of a school year))~~ completion of audit of data by the state auditor, school districts may report to the superintendent of public instruction supplemental full-time equivalent staff for the school year pursuant to WAC 392-127-065 and instructions provided by the superintendent.

AMENDATORY SECTION (Amending Order 96-03, filed 2/13/96, effective 3/15/96)

WAC 392-127-090 School district reporting—Optional report—Enrollment changes. A school district may request that the superintendent of public instruction use a different full-time equivalent enrollment to compute staffing ratios than that reported for October. The school district shall request the use of a different enrollment period prior to ~~((September 30 of the following school year))~~ completion of audit of data by the state auditor. The school district may select ~~((either one of the following))~~:

(1) Through the 2010-11 school year, the full-time equivalent enrollment for any one month during the current school year ~~((; or))~~.

(2) ~~((The annual average full-time equivalent enrollment for the current school year.))~~ For the 2011-12 school year and thereafter, the full-time equivalent enrollment for any one month during the current school year when all basic education instructional programs are operating.

WSR 10-13-055

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed June 10, 2010, 11:02 a.m., effective July 11, 2010]

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

Purpose: The department proposed to amend chapter 16-70 WAC to help clarify the process on reporting diseases from the OIE (World Organization of Animal Health) reportable disease list. The amendments will make it easier for animal health veterinarians and technicians to comply with disease reporting requirements.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 10-12-075 on June 1, 2010.

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

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

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

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

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

Date Adopted: June 10, 2010.

Dan Newhouse
Director

AMENDATORY SECTION (Amending WSR 07-10-087, filed 5/1/07, effective 6/1/07)

WAC 16-70-020 Other diseases reportable to WSDA.

~~(1)((a))~~ In addition to the diseases published on the OIE notifiable disease list, the state veterinarian may request reports on other diseases of concern from a statistical or survey standpoint associated with overall disease control measures.

~~((b))~~ (2) Any veterinarian or veterinary laboratory ~~((may voluntarily))~~ must report to the office of the state veterinarian ~~((other diseases that are not on the OIE notifiable disease list or not))~~ any of the diseases listed ((below)) in subsection (5) of this section. Reports may be faxed to 360-902-2087 or sent to:

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
Olympia, Washington 98504-2577

~~((2))~~ In addition to the diseases that are on the OIE notifiable disease list, the following diseases must be reported immediately to the office of the state veterinarian:

- Beef measles (*Teania saginata*)
- Chronic wasting disease in cervids (Transmissible Spongiform Encephalopathy)
- Contagious ecthyma (Orf)
- Hantavirus
- Infectious Coryza in poultry (*Hemophilus gallinarum*)
- Listeriosis
- Low pathogenic avian influenza H5/H7
- Lyme disease
- Plague (*Yersinia pestis*)
- Potomac horse fever (*Erliehiosis*)
- Salmonellosis (any livestock species)
- Scabies (any livestock species)
- Shigella toxin producing *E. coli*
- Strangles in equine (*Streptococcus equi*)

(3) In addition to reporting requirements listed in the chart below, laboratories must send to the office of the state veterinarian reports of cultures of isolates from *Mycobacterium tuberculosis*, *Cryptococcus* excluding confirmed *Cryptococcus neoformans*, and Vancomycin resistant *Staphylococcus aureus* immediately after they are identified or the next business day.

(4) Veterinary laboratory directors must submit positive specimens of the diseases listed in subsection (3) of this section and any requested information to the state public health laboratories at:

Washington State Public Health Laboratories
Washington State Department of Health
1610 N.E. 150th Street
Seattle, Washington 98155

(5) The tables below describe the time frames associated with reportable diseases.

<u>EMERGENCY CONDITIONS</u> <u>or DISEASE</u> <u>Report to state veterinarian immediately upon suspicion</u>
<u>MULTIPLE SPECIES</u>
<u>• Anthrax (<i>Bacillus anthracis</i>)</u>
<u>• Crimean Congo hemorrhagic fever</u>
<u>• Foot-and-mouth disease</u>
<u>• Heartwater (<i>Cowdria ruminantium</i>)</u>
<u>• Japanese encephalitis</u>
<u>• Livestock exposed to toxic substances which may threaten public health</u>
<u>• Malignant catarrhal fever (all forms)</u>
<u>• <i>Mycobacterium tuberculosis</i></u>
<u>• Rabies in any species (excluding bats)</u>
<u>• Rift Valley fever</u>
<u>• Rinderpest (cattle plague)</u>
<u>• Screwworm myiasis (<i>Cochliomyia hominivorax</i> or <i>Chrysomya bezziana</i>)</u>
<u>• Surra (<i>Trypanosoma evansi</i>)</u>
<u>• Theileriosis (Corridor disease, East Coast fever)</u>
<u>• Unexplained increase in dead or diseased animals</u>
<u>• Vancomycin resistant (<i>Staphylococcus aureus</i>)</u>

EMERGENCY CONDITIONS**or DISEASE****Report to state veterinarian immediately upon suspicion**

- Vesicular stomatitis

BOVINE

- African trypanosomiasis (Tsetse fly diseases)
- Bovine babesiosis (piroplasmosis)
- Bovine spongiform encephalopathy (mad cow)
- Contagious bovine pleuropneumonia (*Mycoplasma mycoides mycoides*)
- Lumpy skin disease

CAPRINE/OVINE

- Contagious agalactia (*Mycoplasma agalactia*)
- Contagious caprine pleuropneumonia (*Mycoplasma capricolum capripneumoniae*)
- Nairobi sheep disease
- Peste des petits ruminants (goat plague)
- *Salmonella abortus ovis*
- Sheep and goat pox

PORCINE

- African swine fever
- Classical swine fever (hog cholera)
- Nipah virus
- Swine vesicular disease
- Vesicular exanthema of swine

POULTRY

- Exotic Newcastle disease (Viscerotropic velogenic Newcastle disease)
- High pathogenic avian influenza and low pathogenic avian influenza
- Turkey rhinotracheitis

EQUINE

- African horse sickness
- Dourine (*Trypanosoma equiperdum*)
- Equine piroplasmosis (*Theileria equi* and *Babesia caballi*)
- Glanders (Farcy) (*Pseudomonas mallei*)
- Hendra virus (Equine morbillivirus)
- Venezuelan equine encephalomyelitis

OTHER SPECIES

- Viral hemorrhagic disease of rabbits (calicivirus)

CONDITIONS OF REGULATORY**IMPORTANCE****Report to state veterinarian within twenty-four hours of suspicion or confirmation****MULTIPLE SPECIES**

- Bluetongue
- Brucellosis
 - Bovine (*Brucella abortus*)
 - Canine (*Brucella canis*)
 - Caprine (*Brucella abortus* and *B. melitensis*)
 - Cervids (*Brucella abortus*)
 - Ovine (*Brucella ovis*)
 - Porcine (*Brucella suis*)

**CONDITIONS OF REGULATORY
IMPORTANCE**

Report to state veterinarian within twenty-four hours of suspicion or confirmation

- Cryptococcus not confirmed to be *Cryptococcus neoformans*
 - Plague (*Yersinia pestis*)
 - Pseudorabies (Aujeszky's disease)
 - Tularemia
 - West Nile virus
- BOVINE**
- Bovine tuberculosis (*Mycobacterium bovis*)
 - Trichomoniasis (*Trichomonas fetus*)
- CAPRINE/OVINE**
- Contagious ecthyma (Orf)
 - Scrapie
- POULTRY**
- Avian infectious laryngotracheitis
 - Ornithosis (Psittacosis or avian chlamydiosis) (*Chlamydia psittaci*)
 - Pullorum disease (fowl typhoid) (*Salmonella gallinarum* and *S. pullorum*)
- EQUINE**
- Contagious equine metritis (*Taylorella equigenitalis*)
 - Ehrlichiosis (Potomac horse fever)
 - Equine encephalomyelitis (Eastern and Western equine encephalitis)
 - Equine infectious anemia (swamp fever)
 - Equine rhinopneumonitis (Equine herpesvirus-1 neurologic form)
- OTHER SPECIES**
- Chronic wasting disease in cervids
 - Tuberculosis in cervids

**MONITORED CONDITIONS
Report by monthly summaries**

- MULTIPLE SPECIES**
- Avian tuberculosis (*Mycobacterium avium*)
 - Echinococcosis/Hydatidosis (*Echinococcus* species)
 - Johne's disease (*Mycobacterium avium* paratuberculosis)
 - Leishmaniasis
 - Leptospirosis
 - Listeriosis
 - Lyme Disease
 - Q Fever (*Coxiella burnetii*)
 - Salmonella
 - Scabies
- BOVINE**
- Anaplasmosis (*Anaplasma marginale* or *A. centrale*)
 - Beef measles (*Teania saginata*)
 - Bovine genital campylobacteriosis (*Campylobacter fetus* venerealis)
 - Bovine viral diarrhea
 - Enzootic bovine leukosis (Bovine leukemia virus)
 - Infectious bovine rhinotracheitis (Bovine herpesvirus-1)
- CAPRINE/OVINE**

MONITORED CONDITIONS
Report by monthly summaries

- Caprine (contagious) arthritis/encephalitis
 - Caseous lymphadenitis
 - Enzootic abortion of ewes (Chlamydia psittaci)
 - Maedi-Visna (Ovine progressive pneumonia)
- PORCINE**
- Porcine circovirus (post-weaning multisystemic wasting syndrome)
 - Porcine cysticercosis (Taenia solium in humans)
 - Porcine reproductive and respiratory syndrome
 - Transmissible gastroenteritis (coronavirus)
 - Trichinellosis (Trichinella spiralis)
- POULTRY**
- Avian infectious bronchitis
 - Avian mycoplasmosis (Mycoplasma synoviae)
 - Duck viral hepatitis
 - Fowl cholera (Pasteurella multocida)
 - Infectious bursal disease (Gumboro disease)
 - Infectious coryza (Avibacterium paragallinarum)
 - Marek's disease
 - Mycoplasmosis (Mycoplasma gallisepticum)
- EQUINE**
- Equine influenza
 - Equine rhinopneumonitis (Equine herpesvirus-1 Non-neurologic form)
 - Equine viral arteritis
 - Strangles (Streptococcus equi)
 - Pigeon Fever (Corynebacterium pseudotuberculosis)
- OTHER SPECIES**
- Fish diseases on the OIE notifiable disease list
 - Heartworm
 - Hemorrhagic diseases of deer (bluetongue, adenovirus, and epizootic hemorrhagic disease)
 - Myxomatosis in commercial rabbits

WSR 10-13-056**PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed June 10, 2010, 11:04 a.m., effective July 11, 2010]

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

Purpose: There are many equine diseases that have become a threat to the equine industry in Washington state, therefore, the department proposed to add new sections within the current chapter 16-71 WAC, Equine infectious anemia. The proposed new sections define each of the diseases and the requirements if equine were to test positive. Because the department proposed to add new equine diseases to the WAC, the department proposed changing the name of this WAC to equine diseases in Washington state.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 10-12-076 on June 1, 2010.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 7, Amended 4, Repealed 0.

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

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

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 0, Repealed 0.

Date Adopted: June 10, 2010.

Dan Newhouse
Director

Chapter 16-71 WAC

EQUINE ((~~INFECTIOUS ANEMIA~~)) DISEASES IN WASHINGTON STATE

AMENDATORY SECTION (Amending WSR 00-14-059, filed 7/3/00, effective 8/3/00)

WAC 16-71-010 Definitions. ~~((+))~~ "Certificate of veterinary inspection (CVI)" means a legible veterinary health inspection certificate on an official form (electronic or paper) from the state of origin or by the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS). This certificate must be executed by a licensed and accredited veterinarian or a veterinarian approved by USDA APHIS. The certificate of veterinary inspection is also known as an "official health certificate."

"Department" means the Washington state department of agriculture.

~~((2))~~ "Director" means the director of the Washington state department of agriculture or his or her ((duty)) authorized representative.

~~((3))~~ "Equine(s)" means horses, donkeys, mules, ponies, zebras, and others in the Equidae family.

~~((4))~~ "Equine Infectious Anemia (EIA)" means infection with the equine infectious anemia lentivirus, affecting both sexes, all ages, all breeds and all species of equines. Infected equines remain carriers for life, constituting a potential source for spread of the infection. There is no known cure or treatment.

~~(5)~~ "Official health certificate" means a legible certificate of veterinary inspection executed on an official form published by the state of origin or by the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS). This certificate must be issued by a licensed, accredited veterinarian or a veterinarian approved by USDA APHIS.

~~(6))~~ "Herd plan" means a written management agreement between the animal owner and the state veterinarian, with possible input from a private accredited veterinarian designated by the owner and the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) veterinary services area veterinarian-in-charge, in which each participant agrees to undertake actions specified in the herd plan to control the spread of infectious, contagious, or communicable disease within and from an infected herd and to work toward eradicating the disease in the infected herd.

"Official test" means ~~((blood samples tested))~~ a laboratory test by USDA-approved laboratories or by people authorized by the state of origin's animal health officials to conduct the tests.

~~((7))~~ "Reactor" means an equine found positive on an official EIA test-)) "VS form 1-27" means a United States

department of agriculture permit form for the movement of restricted or quarantined livestock.

NEW SECTION

WAC 16-71-015 Forms used in this chapter. Forms used in this chapter may be obtained from the department at:

Animal Services Division
Washington State Department of Agriculture
1111 Washington St. S.E.
Olympia, WA 98504-2560
Phone: 360-902-1878.

EQUINE INFECTIOUS ANEMIA

AMENDATORY SECTION (Amending WSR 00-14-059, filed 7/3/00, effective 8/3/00)

WAC 16-71-022 Equine infectious anemia procedures. (1) Equine infectious anemia (EIA) is an infection by the equine infectious anemia lentivirus that affects both sexes, all ages, all breeds, and all species of equine. Infected equine remain carriers for life, constituting a potential source for spread of the infection. There is no known cure or treatment.

(2)(a) Positive diagnosis of EIA is made with the agar gel immunodiffusion test (AGID or Coggins test), competitive enzyme-linked immunosorbent assay (cELISA test) or other official test. A supplementary AGID will be conducted to confirm positives detected with other official tests.

(b) Blood samples for EIA testing will be collected by licensed, accredited veterinarians at the owners' request and expense. At sample collection, the veterinarian will make an accurate, detailed identification of the equine on an official test request form. Positive test results are to be reported to state and federal animal health authorities. ((Owners will be advised of the procedure if equines are found positive on the official test. The owner must sign an agreement regarding disposition of a reactor. The agreement should follow a herd plan as defined in chapter 16.36 RCW.

(2) All equines over six months of age entering the state must be accompanied by an official health certificate and a record of a negative EIA test conducted within six months prior to importation. Exceptions to the EIA test requirement:

(a) Equines consigned for immediate slaughter;

(b) Equines consigned to a veterinary clinic for the purpose of treatment or surgery, under the supervision of a veterinarian. These equines must return to the state of origin following treatment or surgery and must not be commingled, housed or corralled in common with any other equine;

(c) Equines under six months old;

(d) Oregon-origin equines under a reciprocal arrangement; and

(e) Idaho-origin equines may be excluded when a reciprocal arrangement exists for Washington-origin equines moving into Idaho-))

(3) The management or board of governors at race tracks, rodeos, shows, fairs or other assembly points may require ((negative, official EIA tests within six months prior to)) more restrictive testing for all equine before consignment

to an assembly point or participation ~~((for all equines con-~~
~~signed to these assembly points or participating))~~ in an
event(s).

AMENDATORY SECTION (Amending WSR 00-14-059,
filed 7/3/00, effective 8/3/00)

WAC 16-71-030 EIA quarantine. (1)(a) ~~((Within~~
~~twenty-four hours after positive test results are known, reac-~~
~~tors))~~ EIA positive equine will be quarantined to the ~~((prem-~~
~~ises))~~ location of origin or other location approved by the
director, as provided for in ((chapter 16.36)) RCW 16.36.010.
~~((The quarantine will remain in effect until confirmation of~~
~~reactor status and the reactor's disposition.))~~

(b) The quarantine will be released only upon the ~~((reac-~~
~~tor's))~~ positive equine's death or ((when it) if the animal
is legally moved from the ~~((premises))~~ quarantine location
by permit on a VS form 1-27. ~~((If reactor status is disclosed~~
~~while the equine is on a premises other than the owner's, per-~~
~~mission may be granted to move the animal to the owner's~~
~~premises. Reactors can only move by permit on a VS form 1-~~
~~27. State and federal animal health authorities will conduct~~
~~an epidemiological investigation to identify other equines~~
~~exposed to EIA by contact with the reactor.))~~

(c) All equine~~((s having contact with the reactor must))~~
exposed to EIA positive equine will be quarantined. The
quarantine will be removed on these ~~((contact))~~ exposed
equine(s) and movement allowed only after a negative, offi-
cial EIA test at least ~~((60))~~ ninety days after ~~((removal of))~~
the ~~((reactor))~~ positive equine have been removed from the
quarantine premises.

(2) ~~((Confirmed reactors))~~ Positive equine must be
~~((euthanized.))~~

(a) Placed in ~~((a))~~ permanent quarantine in a restricted
holding facility for the life((-))of the equine under a herd plan
developed to control the spread of the diseases, as provided
for in RCW 16.36.005; or

(b) Donated to a diagnostic or research facility~~((, legally~~
~~moved to slaughter))~~; or

(c) Legally removed from the state on a VS form 1-27; or

(d) Euthanized. A state or federal animal health ~~((author-~~
~~ity))~~ official or a licensed~~((;))~~ and accredited veterinarian will
conduct euthanasia.

(3) For lifelong quarantine, a state or federal animal
health ~~((authority))~~ official must approve the isolation facil-
ity. The isolation facility must be located at least two hundred
yards from any other equine, and must keep the ((reactor))
positive equine separate from all other equine(s). ~~((It))~~ The
facility must be screened to prevent transmission of EIA by
insect(s) vectors.

~~((With))~~ (4) In consultation ~~((of))~~ with an entomologist,
an insect control program must be developed, approved by
the director, and must be followed routinely. ~~((The isolation~~
~~facility must be located at least 200 yards from any other~~
~~equines. The department will pay for and hold a lifetime~~
~~brand inspection on those equines held in lifetime quaran-~~
~~tine.))~~

(5) If the ~~((reactor))~~ positive equine is donated~~((, moved~~
~~to slaughter))~~ to a research facility or removed from the state,
it can only move by permit on a VS form 1-27. For removal

from the state, the receiving state must agree in advance to
accept the ~~((reactor))~~ positive equine.

AMENDATORY SECTION (Amending WSR 00-14-059,
filed 7/3/00, effective 8/3/00)

**WAC 16-71-035 Identification of ~~((reactors))~~ EIA
positive equine.** Confirmed ~~((reactors))~~ EIA positive equine
will be permanently identified by lip tattooing or branding
with a hot iron, chemical brand, or freeze brand. A lip tattoo
is applied to the inside surface of the upper lip and consists of
the numbers 91 followed by the letter A, with each character
being at least one inch high and three-fourths of an inch wide.
A brand is applied on the left side of the neck or left shoulder
and consists of the numbers 91 followed by the letter A, with
each character being at least two inches high. Permanent
identification will be applied by state or federal animal health
authorities ~~((or by licensed, accredited veterinarians. Perma-~~
~~nent identification is not necessary if the reactor is moved~~
~~directly to slaughter under permit with a VS form 1-27 and~~
~~the vehicle is officially sealed)).~~

EQUINE VIRAL ARTERITIS (EVA)

NEW SECTION

WAC 16-71-065 Equine viral arteritis. (1) Equine
viral arteritis (EVA) is a contagious equine disease.
Although typically not life threatening to otherwise healthy
adult horses, EVA is of special concern because it can result
in abortion in pregnant mares, illness and death in young
foals, and establishment of the carrier state in stallions.
Equine viral arteritis is a manageable disease that can be pre-
vented through a vaccination program.

(2) If equine test positive for EVA:

(a) The owner of intact males over six months of age and
equine reproductive products from donors that test positive
for EVA must comply with the United States Department of
Agriculture (USDA) *Equine Viral Arteritis Uniform Methods
and Rules*, effective April 19, 2004.

(b) Intact males that test antibody positive for EVA may
be subject to quarantine.

(c) Equine semen and embryos from antibody positive
donors must be used or implanted only in vaccinated or sero-
positive mares. These mares must be isolated for twenty-one
days following insemination or implantation.

NEW SECTION

**WAC 16-71-070 Adoption of USDA equine viral
arteritis uniform methods and rules.** In addition to the
rules adopted in this chapter, the Washington state depart-
ment of agriculture adopts the procedures and methods of the
United States Department of Agriculture (USDA) *Equine
Viral Arteritis Uniform Methods and Rules*, effective April
19, 2004. The department maintains a copy of this document
for public inspection. You may also find the information on
the internet at: [http://www.aphis.usda.gov/animal_health/
animal_diseases/eva/downloads/eva-umr.pdf](http://www.aphis.usda.gov/animal_health/animal_diseases/eva/downloads/eva-umr.pdf)

EQUINE HERPES VIRUS (EHV1)NEW SECTION

WAC 16-71-080 Equine herpes virus. (1) The neurological form of equine herpes virus (EHV1) is a contagious equine disease that can cause respiratory disease, neurological disease, and abortion.

(2) Horses that show clinical signs consistent with neurological EHV1 and test positive to a PCR test for neurological EHV1 will be dealt with by the state veterinarian on a case-by-case basis.

EQUINE PIROPLASMOSISNEW SECTION

WAC 16-71-090 Equine piroplasmosis. (1) Equine piroplasmosis (EP) is a tick-borne disease caused by two parasitic organisms, *Theileria equi* and *Babesia caballi*, and is transmitted to horses by ticks or improperly disinfected needles or surgical instruments. EP causes clinical signs such as fever, anemia, lethargy, jaundice, dependent edema, and labored breathing.

(2) Horses that test positive to any of the following tests must either be euthanized or removed from the state within thirty days of diagnosis:

(a) cELISA (competitive enzyme-linked immunosorbent assay);

(b) CF (complement fixation);

(c) PCR (polymerase chain reaction); or

(d) IFA (immunofluorescent antibody).

(3) Equine found positive to piroplasmosis must be:

(a) Permanently quarantined in a restricted holding facility for the life of the equine under a herd plan developed to control the spread of the disease, as provided for in RCW 16.36.005; or

(b) Donated to a diagnostic or research facility; or

(c) Legally removed from the state on a VS form 1-27; or

(d) The equine is euthanized and disposed of under the direct supervision of a state or federal animal health official.

STRANGLESNEW SECTION

WAC 16-71-100 Strangles. (1) Strangles (also known as equine distemper) is a contagious, upper respiratory tract infection of equines caused by a bacterium, *Streptococcus equi var equi*. Strangles is enzootic in domesticated horses worldwide.

(2) Horses that test positive to *Streptococcus equi* will be dealt with by the state veterinarian on a case-by-case basis.

VESICULAR STOMATITISNEW SECTION

WAC 16-71-110 Vesicular stomatitis. Equine that have been diagnosed with vesicular stomatitis will be held in quarantine with all exposed and susceptible species at the

location where livestock were diagnosed until twenty-one days following the cessation of all clinical signs of disease in animals at that location.

WSR 10-13-057**PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed June 10, 2010, 11:08 a.m., effective July 11, 2010]

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

Purpose: The department proposed to amend chapter 16-80 WAC to create a definition for feral swine and to bring the current language up-to-date with current standards as well as make it clear and readable. The department also proposed changing the name of this WAC to "Swine diseases regulated in Washington state."

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 10-12-077 on June 1, 2010.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 4, Repealed 7.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 4, Repealed 7.

Date Adopted: June 10, 2010.

Dan Newhouse

Director

Chapter 16-80 WAC**((PSEUDORABIES IN)) SWINE DISEASES REGULATED IN WASHINGTON STATE**

AMENDATORY SECTION (Amending WSR 00-06-066, filed 3/1/00, effective 4/1/00)

WAC 16-80-005 Definitions. ~~(((+)))~~ In addition to the definitions found in RCW 16.36.005, the following definitions apply to this chapter:

"Department" means the Washington state department of agriculture.

"Director" means the director of agriculture of the state of Washington or his or her authorized representative(s).

~~(((2)) "Department" means the department of agriculture of the state of Washington.~~

~~(3) "Approved pseudorabies vaccine" means only those biological products that are approved by and produced under license of the United States Department of Agriculture (USDA) for injection into swine for the purpose of enhancing their resistance to pseudorabies, are specific gene deletion vaccines and are authorized for use in a specific herd by the state veterinarian.~~

~~(4)) "Exposed" means to have had contact with an animal infected with an infectious or communicable disease.~~

~~"Feral swine" means animals included in any of the following categories:~~

~~• Animals of the genus *Sus* that are free roaming on public or private lands and do not appear to be domesticated;~~

~~• Swine from domesticated stocks that have escaped or been released or born into the wild state;~~

~~• European wild hogs and their hybrid forms (also known as European wild boars or razorbacks), regardless of whether they are free roaming or kept in confinement; or~~

~~• Animals of the family *Tayassuidae* such as peccaries and javelinias, regardless of whether they are free roaming or kept in confinement.~~

~~"Official USDA-approved identification" means ((a) USDA issued backtag or an ear tag bearing state identification and a unique number)) methods of identification, as approved in 9 C.F.R. Chapter 1, Section 71.19, January 1, 2009.~~

~~((5)) "Pseudorabies infected herd" means a herd of swine in which pseudorabies has been diagnosed in one or more animals by the National Veterinary Service Laboratory (NVSL) or a state laboratory approved by USDA to conduct official pseudorabies tests.~~

~~((6) "Expose" means to have contact with an animal infected with the pseudorabies virus.~~

~~(7) "Pseudorabies" means a contagious, infectious and communicable disease caused by a herpesvirus that affects swine and other animals.~~

~~(8) "Official pseudorabies test" means a test for the diagnosis of pseudorabies conducted in a USDA approved laboratory. These tests include, but are not limited to, serum neutralization (SN), virus isolation, fluorescent antibody, latex agglutination, particle concentration fluorescence immunoassay (PCFIA) and enzyme-linked immunosorbent assay (ELISA).) "USDA" means the United States Department of Agriculture.~~

NEW SECTION

WAC 16-80-006 Adoption of USDA pseudorabies eradication program standards. In addition to the rules adopted in this chapter, the Washington state department of agriculture adopts the procedures and methods of the USDA pseudorabies eradication state-federal-industry program standards, effective November 1, 2003. The department maintains a copy of this document for public inspection. You may also find the information on the internet at: http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stdts.pdf

NEW SECTION

WAC 16-80-008 Adoption of USDA swine brucellosis control and eradication program standards. In addition to

the rules adopted in this chapter, the Washington state department of agriculture adopts the procedures and methods of the USDA swine brucellosis control and eradication state-federal-industry program standards, effective April, 1998. The department maintains a copy of this document for public inspection. You may also find the information on the internet at: http://www.aphis.usda.gov/animal_health/animal_dis_spec/swine/downloads/sbruumr.pdf

NEW SECTION

WAC 16-80-009 Surveillance program. All blood samples from Washington swine submitted to the department's laboratory or to a USDA-approved laboratory for pseudorabies or brucellosis testing will be tested for both pseudorabies and swine brucellosis using official USDA-approved tests.

AMENDATORY SECTION (Amending WSR 00-06-066, filed 3/1/00, effective 4/1/00)

WAC 16-80-010 Quarantine. All swine ((herds)) infected with or exposed to classical swine fever (hog cholera), pseudorabies, swine brucellosis, or any other reportable, infectious, or communicable disease will be quarantined and officially tested for ((pseudorabies)) the above listed diseases by state or federal officials. If the owner of any such swine ((herd)) refuses to allow the department to test, the swine ((herd)) and the premises on which they are quarantined will remain quarantined until released under ((WAC 16-80-020;)) RCW 16.36.010 or 16.36.020. No animal or products of such animals will be removed from the premises while they are under quarantine except as provided in RCW 16.36.010 or 16.36.020.

AMENDATORY SECTION (Amending WSR 00-06-066, filed 3/1/00, effective 4/1/00)

WAC 16-80-035 Indemnity for ((pseudorabies)) infected or exposed swine. (1) Under RCW 16.36.090, the director may order the slaughter or destruction of any swine affected with or exposed to classical swine fever (hog cholera), pseudorabies, swine brucellosis, or any other reportable, infectious, or communicable disease. ((The state veterinarian must approve the disposal methods of those swine destroyed.))

(2) Under RCW 16.36.096, subject to the availability of ((sufficient)) funds appropriated for this specific purpose, the director may pay an indemnity ((for any swine)) in an amount of up to seventy-five percent of appraised or salvage value of the animal ordered slaughtered or destroyed. ((When the indemnity is approved, the amount that will be paid is one hundred dollars for any sow past fifty days pregnant or with suckling piglets, fifty dollars for boars and open sows or sows less than fifty days pregnant, and fifty dollars for breeding gilts over two hundred fifty pounds live weight. An indemnity of up to seventy-five percent of appraised value of feeding stock will be paid when destroyed rather than slaughtered.))

(3) No indemnity will be paid if:

~~((1) The statewide infection rate exceeds 0.1% of total swine herds in the state; or~~

~~((2)) (a) The swine belong to the federal government or any of its agencies, this state or any of its political subdivisions, or any municipal corporations; or~~

~~((3)) (b) The swine were ((brought into this state within six months of being ordered slaughtered or destroyed)) not imported into this state in compliance with state importation regulations found in chapter 16-54 WAC.~~

(4) The state veterinarian must approve of the disposal methods of any swine ordered destroyed.

AMENDATORY SECTION (Amending WSR 00-06-066, filed 3/1/00, effective 4/1/00)

WAC 16-80-045 Identification of swine. ~~((Bears and sows))~~ All swine moving through public livestock ~~((auction yards))~~ markets or collection facilities in intrastate or interstate commerce must ~~((be tagged with))~~ have official USDA-approved identification~~((All swine moving in interstate commerce must be identified))~~ in compliance with ~~((federal regulation))~~ 9 C.F.R. Chapter 1, Section 71.19 ((a & b)), January 1, 2009.

NEW SECTION

WAC 16-80-060 Feral swine. Feral swine are illegal in the state of Washington. If found, feral swine will be eradicated and disposed of in a humane manner.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-80-007 Surveillance program.
- WAC 16-80-015 Sale of quarantined animals.
- WAC 16-80-020 Quarantine and release.
- WAC 16-80-025 Disinfecting premises.
- WAC 16-80-030 Disinfecting vehicles.
- WAC 16-80-040 Vaccination.
- WAC 16-80-047 Mandatory reporting of suspected pseudorabies.

**WSR 10-13-058
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed June 10, 2010, 11:14 a.m., effective July 11, 2010]

Effective Date of Rule: Thirty-one days after filing.
Purpose: Repealing WAC 139-05-205.

On January 1, 2002, peace officer certification went into effect. One of the requirements for a person to be certified as a Washington state peace officer or tribal law enforcement officer is to complete the basic law enforcement academy or

the basic law enforcement equivalency academy. WAC 139-05-205 allows persons who are the heads of law enforcement agencies with ten or more commissioned law enforcement officers to be exempt from this training. This action waives the training requirement, but does not allow the person exempted to enforce the laws of the state of Washington and does not authorize the exempt person to be a certified peace or tribal law enforcement officer.

WAC 139-05-205 is in conflict with the certification requirements and is no longer necessary. WAC 139-03-030 allows an agency to request an exemption, waiver, extension, or variance from the rules set by the Washington state criminal justice training commission and is still available to be used for such purpose.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 10-07-106 on March 22, 2010.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

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

Date Adopted: June 9, 2010.

Sonja Hirsch
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 139-05-205 Administrative exemption.

**WSR 10-13-077
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)**

[Filed June 15, 2010, 10:53 a.m., effective July 16, 2010]

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

Purpose: DSHS is amending this rule regarding exclusion of vehicles as a resource for SSI-related medical eligibility, in order to comply with federal rule change in 20 C.F.R. 416.1218. In 2005, federal legislation changed the rule regarding exclusions for vehicles for SSI-related clients by eliminating the \$5,000 fair market value vehicle exclusion.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-475-0400.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Adopted under notice filed as WSR 10-09-053 on April 16, 2010.

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

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

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

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

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

Date Adopted: June 1, 2010.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-09-003, filed 4/7/04, effective 6/1/04)

WAC 388-475-0400 SSI-related medical—Vehicles excluded as resources. (1) For SSI-related medical programs, a vehicle is defined as anything used for transportation. In addition to cars and trucks, a vehicle can include boats, snowmobiles, and animal-drawn vehicles.

(2) One vehicle is excluded regardless of its value, if it is used to provide transportation for the disabled individual or a member of the individual's household(

~~(a) For employment;~~

~~(b) For the treatment of a specific or regular medical problem;~~

~~(c) For transportation of or modified for operation by a handicapped person; or~~

~~(d) Because of climate, terrain, distance, or similar factors to perform essential daily activities)).~~

(3) ~~((If no vehicle is excluded under subsection (2), the department excludes up to five thousand dollars of the current fair market value of one vehicle as a resource. If the current fair market value of the vehicle exceeds five thousand dollars, the excess is counted toward the resource limit))~~ For an SSI-related institutional client with a community spouse, one vehicle is excluded regardless of its value or its use. See WAC 388-513-1350 (7)(b).

(4) A vehicle used as the client's primary residence is excluded as the home, and does not count as the one excluded vehicle under subsection (2) or (3).

(5) All other vehicles, except those excluded under WAC 388-475-0350 (11) through (14), are treated as nonliquid resources and the equity value is counted toward the resource limit.

WSR 10-13-080
PERMANENT RULES
HIGHER EDUCATION
FACILITIES AUTHORITY

[Filed June 15, 2010, 11:29 a.m., effective July 16, 2010]

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

Purpose: Chapter 253-02 WAC, the authority is amending WAC 253-02-010 to reflect the recodification of chapter 34.04 RCW and WAC 253-02-050 to update the technology available for authority meetings and to clarify the requirements for quorum and authority action.

Chapter 253-16 WAC, the amendments to WAC 253-16-010 clarify the purpose of the chapter and require the authority to adopt guidance policies. Amendments to WAC 253-16-040 clarify the annual fees for applicants and eliminate references to specific fees. The amendments to WAC 253-16-050 and the repeal of WAC 253-16-060 and 253-16-070 streamline the application review and acceptance process. The amendments to WAC 253-16-090 streamline the selection process of underwriters for authority bonds.

Citation of Existing Rules Affected by this Order: Repealing WAC 253-16-060 and 253-16-070; and amending WAC 253-02-010, 253-02-050, 253-16-010, 253-16-040, 253-16-050, and 253-16-090.

Statutory Authority for Adoption: RCW 28B.07.040(1).
Adopted under notice filed as WSR 10-09-082 on April 20, 2010.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 2.

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

Date Adopted: June 15, 2010.

Paul R. Edwards
Deputy Director

AMENDATORY SECTION (Amending Order 3, filed 11/27/84)

WAC 253-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington higher education facilities authority with the provisions of chapter 42.17 RCW (Initiative 276), and chapter ~~((34.04))~~ 34.05 RCW.

AMENDATORY SECTION (Amending WSR 95-19-025, filed 9/11/95, effective 10/12/95)

WAC 253-02-050 Operations and procedures. (1) Uniform procedure rules: Practice and procedure in and

before the authority are governed by the uniform procedural rules codified in the Washington Administrative Code, WAC 1-08-005 through 1-08-590, as now or hereafter amended, which rules the authority adopts as its own, subject to any additional rules the authority may add from time to time. The authority reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law.

(2) Authority meetings: The meetings of the authority shall all be "regular" or "special meetings" as those designations are applied in chapter 42.30 RCW. They may be called at any time and place by the chairman or a majority of the members of the authority. Notice of all special meetings shall be given by delivering personally, or by mail, fax or electronic mail, to each member a written notice specifying the time and place of the meeting and a copy of the agenda prepared by the executive director in consultation with the chairman, and by giving such notice to the public as may be required by law. If an emergency is deemed to exist, the chairman may shorten the notice period to not less than twenty-four hours. An executive session may be called by the chairman or by a majority of all members of the authority to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110.

(3) Quorum: Four members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority except as specified hereafter in subsection (7) of this section. Members participating in a meeting through the use of any means of communication by which all members participating can hear each other during the meeting shall be deemed to be present in person at the meeting for all purposes.

(4) Chairperson's or secretary's voting rights: The chairperson or the chairperson's designee and the secretary shall have the right to vote on all matters before the authority, just as any other authority member.

(5) Minutes of meetings: Minutes shall be kept of the proceedings of the authority.

(6) Rules of order: The authority shall generally follow *Robert's Rules of Order*, newly revised, in conducting its business meetings.

(7) Form of authority action: The authority may act on the basis of a motion except when authorizing issuance of bonds pursuant to WAC 253-16-070 and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of bonds for a project of a participant, in which case the authority shall act by resolution. Such resolutions shall be adopted upon the affirmative vote of ~~((a majority of the))~~ four or more members of the authority and shall be signed by a majority of the members of the authority. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting. All bonds and coupons shall bear either the manual or the facsimile signatures of the governor and executive director.

(8) Public participation. The presiding officer may grant permission to any person or organization to make a presenta-

tion at any of the authority's public meetings. The presiding officer may limit any remarks addressed to the authority.

AMENDATORY SECTION (Amending WSR 95-19-025, filed 9/11/95, effective 10/12/95)

WAC 253-16-010 Purpose. The purpose of this chapter shall be ~~((to establish fees for the authority's operations and))~~ to set forth ~~((procedures relating to))~~ the principles governing the authority's financing process and the designation of underwriters and bond counsel. In addition, the authority shall adopt policies to provide guidance to applicants, authority staff and finance team.

AMENDATORY SECTION (Amending Order 3, filed 11/27/84)

WAC 253-16-040 Fees. (1) ~~((Authorization to charge fees:))~~ The authority, pursuant to chapter 28B.07 RCW, shall require applicants to pay fees and charges to the authority to provide it with funds for expenses of issuance and sale of bonds, and other charges for services provided by the authority in connection with projects undertaken, as well as the operating and administrative expenses of the authority. ~~((In accordance with this authorization, an applicant shall pay to the authority such fees and charges as are necessary to meet any and all expenses incurred by the authority in connection with the processing of the application of the applicant, together with an annual service fee to defray expenses of the authority in administering and servicing the financing provided to the applicant and other allocable expenses of the authority:))~~ The ~~((authority shall assess an))~~ annual service fee ~~((of one-tenth of one percent of))~~ shall be based on the outstanding and unredeemed bonds of each applicant. The initial annual fee shall be paid to the authority on the date of closing of each tax exempt note or bond issue and ~~((in every anniversary date))~~ annually thereafter ~~((: Provided, however, That))~~. The authority ~~((by an adopted motion may))~~ shall set ~~((a different))~~ fee schedules and may waive or credit all or any part of the annual or application fee ~~((:~~

~~((2) Fee obligations of the applicants: An applicant shall submit with its application an initial remittance of: (a) A three thousand seven hundred fifty dollar fee which shall accompany each application for a bond anticipation note; or (b) a seven thousand five hundred dollar fee which shall accompany all other applications for assistance. The authority shall, in its discretion make the final determination whether any application is for a bond anticipation note. The applicant shall pay such fees and charges as they are billed to it from time to time by the authority. These expenses may be reimbursed to the applicants from the bond proceeds if financing is consummated. In addition, the application shall contain an appropriate legal commitment to indemnify the authority against any expenses or costs incurred by it in connection with the processing of the applicant's application and the completion of any project or plan and system subsequently approved and undertaken by the authority, as well as to pay the authority an annual service fee to defray expenses of the authority in administering and servicing the financing provided to the applicant and other allocable expenses of the~~

authority, which annual fee shall be imposed so long as financing is being provided by the authority to the applicant.

(3) Refund of excess fees: The authority may from time to time, at its discretion refund any surplus fees paid or deposited by an applicant or participant which the authority believes exceeds the actual application processing expenses and authority determined pro-rata administrative and operating costs of the authority.

(4)) by motion. Authority fee schedules shall be contained in the authority's policies.

(2) All the costs and expenses of the authority shall be paid from fees assessed pursuant to this section. No moneys of the state of Washington shall be expended for such purposes.

AMENDATORY SECTION (Amending Order 3, filed 11/27/84)

WAC 253-16-050 Processing of application. An application will be reviewed and accepted by the executive director and such authority staff as he or she determines. ~~((Upon completion of authority staff analysis and recommendations, such staff analysis and recommendations and the application shall be presented to the authority for appropriate action.))~~ Such review will be based upon the stated legislative intent to enable the building, providing, and utilization of modern, well-equipped, efficient and reasonably priced higher educational facilities, as well as the improvement, expansion, and modernization of such facilities, in a manner that will minimize the capital cost of construction, financing and use of such facilities. Proposed facilities should improve and ensure the quality and range of educational services available to the citizens of this state. The authority will adopt policies to implement this intent and will review applications based on such policies.

AMENDATORY SECTION (Amending WSR 95-19-025, filed 9/11/95, effective 10/12/95)

WAC 253-16-090 Selection of investment banking firms as underwriters. (1) The authority shall create and maintain a roster of underwriters who the authority believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the authority's bonds at the lowest possible costs in Washington state as well as nationally.

(2) Any underwriter may apply to have its name placed on the roster. Each underwriter placed on the roster must be able to demonstrate current competence and experience in the structuring and sale of higher educational facility bond financing ~~((In addition the underwriter must meet the following minimum standards:~~

(a) ~~The firm must have a minimum equity capital of five million dollars; and~~

(b) ~~The firm must currently possess the competence and ability to underwrite a higher education facility bond issue)~~ by demonstrating, among other things ~~((, that):~~

(a) ~~The firm or ((it's)) its~~ key underwriting personnel have either managed or comanaged two higher educational facility bond issues within the last three calendar years; ~~((or~~

(e) ~~The firm has served as a credit facility for a higher education facility within the past three years; or))~~ and

~~((d))~~ (b) The firm meets other criteria as the authority may adopt from time to time which establish a firm's ability to prepare for issuance, underwrite and market bonds to be issued by the authority.

(3)(a) As permitted by RCW 28B.07.130(2), the authority may adopt rules permitting applicants to select an underwriter in lieu of the authority. Whenever the ~~((authority))~~ applicant decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the ~~((authority))~~ applicant an itemization of its fees and other charges for providing underwriting services on the issue. The ~~((authority))~~ applicant shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the ~~((authority))~~ applicant shall consider the underwriter's fees and other charges and the public interest in achieving issuance of bonds on terms most favorable to the authority and the applicant.

~~((b) The applicant may, at its option, exercise the notice and selection procedures regarding underwriters set forth in (a) of this subsection. In such circumstances))~~ The applicant shall supply the authority with written verification that it has complied with the provisions of ((a) of) this subsection and the applicant shall obtain the authority's prior approval of the actual selection of the underwriter.

~~((4)(a) To provide balanced management knowledge and sale distribution and to assure the most realistic bond terms and interest, the authority reserves the right to name investment banking firms as comanagers of any authority bond issue(s) in the same manner that a senior manager is selected.~~

(5) ~~For private placements))~~ (b) Whenever an applicant intends to select an underwriter pursuant to competitive bidding, the applicant, with the consent of the executive director, shall solicit bids notifying each underwriter on the roster of underwriters.

(4) Whenever an applicant intends to privately place bonds, the applicant((s)) may select a firm as placement agent for its proposed financing, subject to review and approval by the executive director of the authority. ((In every instance,)) The placement agent selected must be able to demonstrate a familiarity with, and competence and experience in, the structuring and sale of higher education facility bonds. ((The applicant shall notify the authority in writing of its proposed placement agent selection fifteen days prior to the date it intends to enter into a formal contractual agreement. The authority will notify the applicant of its acceptance or rejection of the applicant's placement agent selection no later than ten days after receipt of the applicant's notification. If rejected, the authority will set forth the reasons for rejection, and the applicant will then propose another placement agent subject to authority approval in the same manner. The authority shall, in its discretion, make the final determination whether an issue is a private placement.))

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 253-16-060	Priorities regarding applicant funding.
WAC 253-16-070	Authority action on applications.

Date Adopted: June 10, 2010.

Mark Buford
Assistant Director

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 10-14 issue of the Register.

WSR 10-13-081
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed June 15, 2010, 12:27 p.m., effective July 16, 2010]

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

Purpose: To update agency adoptions by reference, update internal references within the regulation, and to adopt new section 155 - STATE ENVIRONMENTAL POLICY ACT (SEPA), clarifying SEPA authority, policy and procedures.

Citation of Existing Rules Affected by this Order: Amending Sections 104 and 300 of the Regulation of the Northwest Clean Air Agency.

Statutory Authority for Adoption: Chapters 70.94 and 43.21C RCW.

Adopted under notice filed as WSR 10-08-088 on April 6, 2010.

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

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

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

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

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

WSR 10-13-084
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed June 15, 2010, 2:08 p.m., effective August 1, 2010]

Effective Date of Rule: August 1, 2010.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: All requirements necessary to amend the existing Grays Harbor pilotage district tariff as set forth in chapter 53.08 RCW have been met.

Purpose: To establish an annual tariff for pilotage services in the Grays Harbor pilotage district.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 10-09-098 on April 21, 2010.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: June 10, 2010.

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 09-13-058, filed 6/15/09, effective 8/1/09)

WAC 363-116-185 Pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours August 1, (~~2009~~) 2010, through 2400 hours July 31, (~~2010~~) 2011.

CLASSIFICATION

RATE

Charges for piloting of vessels in the inland waters and tributaries of Grays Harbor shall consist of the following:

Draft and Tonnage Charges:

CLASSIFICATION	RATE
Each vessel shall be charged according to its draft and tonnage for each vessel movement inbound to the Grays Harbor pilotage district, and for each movement outbound from the district.	
Draft	\$100.12 per meter
	or
	\$30.51 per foot
Tonnage	\$0.287 per net registered ton
Minimum Net Registered Tonnage	\$1,004.00
Extra Vessel (in case of tow)	\$562.00
Provided that, due to unique circumstances in the Grays Harbor pilotage district, vessels that call, and load or discharge cargo, at Port of Grays Harbor Terminal No. 2 shall be charged \$5,562.00 per movement for each vessel movement inbound to the district for vessels that go directly to Terminal No. 2, or that go to anchor and then go directly to Terminal No. 2, or because Terminal No. 2 is not available upon arrival that go to layberth at Terminal No. 4 (without loading or discharging cargo) and then go directly to Terminal No. 2, and for each vessel movement outbound from the district from Terminal No. 2, and that this charge shall be in lieu of only the draft and tonnage charges listed above.	
Boarding Charge:	
Per each boarding/deboarding from a boat or helicopter	\$1,030.00
Harbor Shifts:	
For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage	\$699.00
Delays per hour	\$164.00
Cancellation charge (pilot only)	\$274.00
Cancellation charge (boat or helicopter only)	\$822.00
Two Pilots Required:	
When two pilots are employed for a single vessel transit, the second pilot charge shall include the harbor shift charge of \$699.00 and in addition, when a bridge is transited the bridge transit charge of \$301.00 shall apply.	
Pension Charge:	
Charge per pilotage assignment, including cancellations	\$((226.00)) <u>271.00</u>
Travel Allowance:	
Transportation charge per assignment	\$100.00
Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$931.00 for each day or fraction thereof, and the travel expense incurred.	
Bridge Transit:	
Charge for each bridge transited	\$301.00
Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam	\$833.00
Miscellaneous:	
The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.	

WSR 10-13-098**PERMANENT RULES****UNIVERSITY OF WASHINGTON**

[Filed June 17, 2010, 9:37 a.m., effective July 18, 2010]

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

Purpose: The amendments to chapter 478-136 WAC establish a separate use of university facilities committee for each of the University of Washington's three campuses.

Amendments also include newly delegated authority from the university president to the chancellors to appoint a chair for the UW Bothell and UW Tacoma committees (amending the previous secretary of the committee role), and add liaison responsibilities between the three committee chairs. In addition the chapter has been reorganized for clarity and updated where necessary to reflect current practice.

The proposed housekeeping amendments to WAC 478-137-030 clarify meaning without changing the rule's effect.

Citation of Existing Rules Affected by this Order: Amending WAC 478-136-010, 478-136-012, 478-136-015, 478-136-025, 478-136-030, 478-136-035, 478-136-060, and 478-137-030.

Statutory Authority for Adoption: RCW 28B.20.130.

Adopted under notice filed as WSR 10-08-066 on April 6, 2010.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 8, Repealed 0.

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

Date Adopted: June 10, 2010.

Rebecca Goodwin Dearnorff
Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 97-24-047, filed 11/26/97, effective 12/27/97)

WAC 478-136-010 Use of university facilities—General policy. The University of Washington is an educational institution provided and maintained by the people of the state in order to carry out its broad mission of teaching, research and public service. The purpose of this policy is to ensure that all university facilities (~~(operated by the university)~~) are reserved primarily for educational use including, but not limited to, instruction, research, public assembly, student activities, and recreational activities related to educational use. Further, each facility may be used for a variety of activities, ~~((sø))~~ as long as the primary function the facility was intended to serve is protected. Reasonable time, place, and manner restrictions may be placed on the use of university facilities.

AMENDATORY SECTION (Amending WSR 07-03-136, filed 1/23/07, effective 2/23/07)

WAC 478-136-012 Definitions. (1) "Chair" of the committee on the use of university facilities means the person delegated authority by the president of the University of Washington and the chancellors of the University of Washington to authorize the use of university facilities, as provided for herein, for activities which take place on their respective campuses or at locations governed by their respective campuses; who oversee the committee on the use of university facilities for their respective campuses; and who liaise with other chairs to promote coordination in the application of this policy across campuses. The University of Washington attor-

ney general's division shall provide legal guidance to the chair as needed.

(2) "Committee on the use of university facilities" means a committee appointed by the chair of the committee on the use of university facilities, which meets on a schedule to be determined by the chair, to provide nonbinding guidance to the chair on the application of these rules. Committee representatives might include representatives for UW police, environmental health and safety, risk management, student affairs, student government, and faculty and staff representatives.

(3) "Facility" or "facilities" includes all structures, grounds, parking lots, waterfront, and airspace owned or operated by the University of Washington, except where a "facility" is excluded from the application of this rule pursuant to a contract (such as a lease or rental agreement). Specific rules also apply to parking lots, bicycle and skateboard use (chapters 478-116, 478-117, and 478-118 WAC), boat moorage facilities (chapter 478-138 WAC and *University Handbook*, Volume 4, Part VII, Chapter 3, Section 2), residence halls (chapter 478-156 WAC), airspace use (*University Handbook*, Volume 4, Part VII, Chapter 3, Section 5), non-university speakers on campus (*University Handbook*, Volume 4, Part VII, Chapter 3, Section 4), and use of facilities by the Associated Students University of Washington (ASUW), Graduate and Professional Student Senate (GPSS), and other affected organizations (*University Handbook*, Volume 3, Part III, Chapter 5).

~~((2))~~ (4) "Use of facilities" includes, but is not limited to ~~((:))~~, the holding of events, the posting and removal of signs, all forms of advertising, commercial activities, and charitable solicitation.

~~((3))~~ "Approved event" means a use of university facilities which has received preliminary approval from an academic or administrative unit and which has received final approval from the committee on the use of university facilities.

AMENDATORY SECTION (Amending WSR 05-21-133, filed 10/19/05, effective 11/19/05)

WAC 478-136-015 Delegated and administrative responsibilities. (1) The board of regents has delegated to the president of the university the authority to regulate the use of university facilities.

~~((2))~~ Under this authority, the president has ~~((appointed))~~ acted or will act as follows:

(a) Delegate to the chair for the committee on the use of university facilities (~~((To provide for proper))~~) with respect to facilities located on or governed by those located on the Seattle campus and for all other university facilities except for those located on the campuses for which there is a chancellor, the authority to review (~~((øf))~~) the use of university facilities; to establish within the framework of this policy guidelines and procedures governing such use; to approve or disapprove requested uses; and to establish policies regarding fees and rental schedules where appropriate. Inquiries (~~((concerning the use of university facilities may))~~) to the chair for the Seattle campus should be directed to:

University of Washington Seattle

of ~~((Secretary))~~ Seattle Chair of the Committee on the Use of University Facilities ~~((239M Gerberding Hall))~~
Box 351241
Seattle, WA 98195-1241

(or phone: 206-543-9233, or e-mail sprogram@uw.edu).

~~((3) Preliminary approval))~~ (b) Delegate to the chancellors of the University of Washington campuses, with respect to facilities located on or governed by those located on their campus, the authority to review the use of university facilities; to establish within the framework of this policy guidelines and procedures governing such use; to approve or disapprove requested uses; and to establish policies regarding fees and rental schedules where appropriate.

(c) Delegate the chancellors the authority to subdelegate the authorities provided for in (b) of this subsection to a chair of the committee on the use of university facilities for facilities located on or governed by those located on their respective campuses. For the current UW campuses, other than the Seattle campus, inquiries concerning the use of university facilities may be directed to:

University of Washington Bothell
Bothell Chair of the Committee on the Use of University Facilities
Office of the Vice-Chancellor for Administration and Planning
Box 358520
18115 Campus Way N.E.
Bothell, WA 98011

or

University of Washington Tacoma
Tacoma Chair of the Committee on the Use of University Facilities
1900 Commerce Street, GWP 312
Box 358430
Tacoma, WA 98402

(or, for the University of Washington Tacoma, phone: 253-692-5645).

(d) Directs the chairs for each committee on the use of university facilities to confer with one another to promote a uniform application of this chapter.

(2) Sponsorship of an event by an academic or administrative unit of the university implies that ((a responsible)) an official with authority to make such decisions for the academic or administrative unit has applied his or her professional judgment to the content of the program, the qualifications of the individuals conducting the event, the manner of presentation, and has concluded, on behalf of his or her academic or administrative unit, that the event is consistent with ((the teaching, research, and/or public service mission of the university)) this chapter.

~~((4) Final))~~ (3) Approval of a facilities use request by the ((committee on the use of university facilities implies)) appropriate committee chair means that the committee ((has reviewed)) chair has determined that the proposed event ((with regard to: The general facilities policy; the direct and indirect costs to the institution; environmental, health and

safety concerns; wear and tear on the facilities; appropriateness of the event to the specific facility; and the impact of the event on the campus community, surrounding neighborhoods and the general public.

~~(5) The university will not make its facilities or services available to organizations which do not assure the university that they will comply with the terms of the Americans with Disabilities Act (ADA, 42 U.S.C. 12132, 12182) and the Rehabilitation Act of 1973 (RA, 29 U.S.C. 794). Uses must not impose restrictions nor alter facilities in a manner which would violate the ADA or RA.~~

~~(6) The university will not make its facilities or services available to organizations which do not assure the university that they do not discriminate against any person because of race, color, religion, national origin, sex, sexual orientation, age, handicap, or status as a Vietnam era or disabled veteran, except where such organizations have been exempted from provisions of applicable state or federal laws or regulations.~~

~~(7) Individuals who violate the university's use of facilities regulations and approved users who violate university contract terms for use of facilities may be advised of the specific nature of the violation and, if continued, individuals may be requested to leave university property or be refused future use of university facilities. Failure to comply with a request to leave university property could subject such individuals to arrest and criminal prosecution under provisions of applicable state, county, and city laws)) is consistent with this chapter.~~

AMENDATORY SECTION (Amending WSR 97-24-047, filed 11/26/97, effective 12/27/97)

WAC 478-136-025 Users. (1) Faculty, staff, and registered student organizations or official student ~~((organizations))~~ governments may use university facilities to hold events for faculty, staff, and students provided such uses comply with this general policy on use of university facilities and specific facilities use policies of individual university units. These events do not ~~((, however,))~~ require either ~~((preliminary approval))~~ sponsorship by an academic or administrative unit or ~~((final))~~ approval by a chair of the committee on the use of university facilities.

(2) Faculty, staff, and registered student organizations or official student ~~((organizations))~~ governments may use university facilities to hold events to which the general public is invited when the event ~~((has preliminary approval))~~ is sponsored by an academic or administrative unit and ~~((final approval of))~~ approved by the appropriate chair of the committee on the use of university facilities.

(3) Nonuniversity organizations and individuals may use university facilities to hold events which ~~((have received preliminary approval))~~ are sponsored by a university academic or administrative unit and ~~((final approval))~~ approved by the appropriate chair of the committee on the use of university facilities. The general public may be invited to such events.

AMENDATORY SECTION (Amending WSR 07-03-136, filed 1/23/07, effective 2/23/07)

WAC 478-136-030 Limitations on use. (1) First priority for the use of campus facilities shall be given to regularly

scheduled university activities. Additionally, use of university facilities may be subject to reasonable time, place, and manner restrictions that take into account, among other considerations, the general facilities policy; the direct and indirect costs to the institution; environmental, health and safety concerns; wear and tear on the facilities; appropriateness of the event to the specific facility; and the impact of the event on the campus community, surrounding neighborhoods, and the general public.

(2) Freedom of expression is a highly valued and indispensable quality of university life. However, university facilities may not be used in ways which obstruct or disrupt university operations, the freedom of movement, or any other lawful activities. ((Additionally, use of university facilities may be subject to reasonable time, place and manner restrictions:)) No activity may obstruct entrances, exits, staircases, doorways, hallways, or the safe and efficient flow of people and vehicles.

((2)) (3) University facilities may be used for political activities (including events and forums regarding ballot propositions and/or candidates who have filed for public office ((so long as)) only if the event has ((received preliminary approval)) been sponsored by an administrative or academic unit and ((final approval)) approved by the ((committee on the use of university facilities. There are, however, certain limitations on the use of university facilities for these political activities:)) appropriate committee chair, and subject to the following limitations:

(a) ((First priority for the use of campus facilities shall be given to regularly scheduled university activities.

(b) University facilities may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office only when)) The full rental cost of the facility ((is)) must be paid ((However, use of)) and state funds ((for payment of facility)) may not be used to pay rental costs ((is prohibited)) or any other costs associated with the event.

((c) Forums or debates may be scheduled at full facility rental rates if all parties to a ballot proposition election or)) (b) All candidates who have filed for office for a given position, regardless of party affiliation, ((are)) must be given equal access to the use of facilities within a reasonable time.

((d)) (c) No person shall solicit contributions on university property for political uses, except in instances where this limitation conflicts with applicable federal law regarding interference with the mails.

((e) Public areas outside university buildings may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office, excluding solicitation of funds, provided the other normal business of the university is not disrupted and entrances to and exits from buildings are not blocked.

((f)) (d) University facilities ((or services)) may not be used to establish or maintain offices or headquarters for political candidates or partisan political causes.

((3)) (4) University facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities serve an educational purpose, as determined by the appropriate chair of the

committee on the use of university facilities (see also subsection (7) of this section, concerning residence halls).

((4)) Nothing in these rules is intended to alter or affect the regular advertising, promotional, or underwriting activities carried on, by, or in the regular university media or publications. Policies concerning advertising, promotional or underwriting activities included in these media or publications are under the jurisdiction of and must be approved by their respective management or, where applicable, advisory committees, in accordance with applicable state and federal laws.

(5) ((In accordance with WAC 478-136-010, the university will make its facilities available only for purposes related to the educational mission of the university, as determined by the committee on the use of university facilities, including but not limited to instruction, research, public assembly, and student activities:)) When permission is granted to use university facilities for approved instructional or related purposes, as a condition of approval, the user of university facilities agrees to include in all materials nonendorsement statements in the form approved by the ((committee on the use of university facilities)) appropriate committee chair. "Materials" includes all communications, advertisement, and any other printed, electronic, or broadcast/telecast information related to the user's activities offered in university facilities. The committee ((will)) chair may determine the content, size of print and placement of the nonendorsement language. The university will not make its facilities available for instructional or related purposes that compete with courses or programs offered by the university.

(6) Solicitation, or distribution of handbills, pamphlets and similar materials by anyone, whether a member of the university community or of the general public, is not permitted in those areas of campus to which access by the public is restricted or where such solicitation or distribution would significantly impinge upon the primary business being conducted.

(7) Solicitation and distribution of materials in university residence halls are governed by residence hall policies. No solicitation of a commercial nature is permitted in university residence halls. Commercial advertising may be allowed, and is restricted to certain designated areas of each residence hall, when it is related to the university's mission and approved by the department of housing and food services.

(8) Outdoor electronic amplification ((on the grounds of the campus)) is prohibited with the following exceptions:

(a) The lawn area immediately west of the Seattle campus Husky Union Building (HUB) will be available for open-air speaking events using directional and volume-controlled speech amplification equipment provided by the university. Use of the Husky Union Building lawn site will be available to registered or official student organizations and faculty or staff groups on a first-come, first-served basis. The amplification system will be issued upon presentation of a currently valid student, faculty or staff identification card at the Husky Union Building Reservation Office.

(b) The committee ((on the use of university facilities)) chair with authority to permit the use of a facility may grant permission ((under special circumstances:)) for the use of ((other)) amplification equipment ((on the lawn site west of

~~the Husky Union Building or~~) in other outdoor locations. Permission should be requested ~~((through:~~

University of Washington
 Secretary to the Committee on the
 Use of University Facilities
 239M Gerberding Hall
 Box 351241
 Seattle, WA 98195-1241

~~(or phone: 206-543-9233);~~) from the appropriate committee chair sufficiently in advance of the program to allow timely consideration.

(9)(a) No person may use university facilities to camp, except if permission to do so has been granted in accordance with the provisions of chapters 478-116 and 478-136 WAC or except as provided in (b) of this subsection. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. Violators are subject to arrest and criminal prosecution under applicable state, county and city laws.

(b) This provision does not prohibit use of the university residence facilities in accordance with chapter 478-156 WAC or the use of facilities where the employee remains overnight to fulfill the responsibilities of his or her position or where a student remains overnight to fulfill the requirements of his or her course of study.

(10) Within the limits of applicable laws, the University of Washington is committed to establishing and maintaining safe conditions for persons attending football games in Husky Stadium or other athletic events or concerts in ~~((campus))~~ university facilities. Accordingly, the rules enumerated below will apply to all such events and be strictly enforced.

(a) The possession or consumption of alcoholic beverages or illegal drugs is prohibited, except for alcohol allowed under a permit or license ~~((obtained under subsection (13) of this section))~~ as provided in WAC 478-136-041. In addition to having the beverages or drugs confiscated, violators may be subject to university disciplinary action and/or legal proceedings, and removal from the events.

(b) Air horns, glass bottles, cans, picnic baskets, bota bags, ice chests, and thermoses (in excess of two-quart capacity) are prohibited. Individuals possessing such will not be admitted to, or will be removed from, Husky Stadium or other athletic or concert facilities until the items have been stored temporarily at locations provided for that purpose or disposed of in some other manner.

(c) Except for designated outdoor smoking sites, as provided in WAC 478-136-035, smoking is prohibited in all portions of all athletic stadia, including, but not limited to, the seating areas, public concourses, and enclosed and covered spaces.

(d) All persons entering events in Husky Stadium or other athletic venues or events in other ~~((campus))~~ university auditoria or facilities shall be subject to having all containers, bags, backpacks, coolers, or similar items visually inspected. Security personnel shall first ask permission to visually inspect the item and advise the person that he/she may refuse. Persons who refuse to allow inspection shall be allowed to return the item to a vehicle or otherwise dispose of it, after

which admission shall be allowed. Persons who refuse the visual inspection and refuse to dispose of the item shall be denied entry.

(11) Only public service announcements and acknowledgment of sponsors will be allowed on scoreboards at athletic venues.

(a) For purposes of this section, a public service announcement is defined as an announcement which promotes the activities or services of federal, state or local governments, including the University of Washington, or non-profit organizations, or generally contributes to the community's welfare and interests.

(b) In acknowledgment of their sponsorship of the scoreboards or sponsorship of events and programs, sponsors may propose public service announcements for display on the scoreboard during athletic events. The public service announcement may be accompanied by a sponsor's name or logo~~(s)~~ but ~~((in keeping with university policy))~~ may not directly promote the products or services of the company. The text and graphics of public service announcements must be submitted at least three days in advance to the department of intercollegiate athletics for approval by the university.

(c) In addition to these public service announcements, sponsors also may be acknowledged by the display of corporate logos, trademarks, or other approved messages upon panels located on the scoreboard.

(12) ~~((Alcoholic beverages may be possessed, sold, served, and consumed at university facilities only if the procedures set forth in this section are followed.~~

~~(a) The appropriate permits/licenses for possession, sale, service, and consumption of alcohol must be obtained from the Washington state liquor control board.~~

~~(b) Permits/licenses must be displayed during the event and all other guidelines and restrictions established by the Washington state liquor control board must be followed.~~

~~(c) Alcoholic beverages may be possessed, sold, served, and consumed at the faculty center, as so designated by the university board of regents to the Washington state liquor control board, pursuant to a spirits, beer, and wine private club license issued by the Washington state liquor control board.~~

~~(d) Alcoholic beverages may be possessed, sold, served, and consumed at university facilities leased to a commercial tenant under a lease that includes authorization for the tenant to apply and hold a license issued by the Washington state liquor control board.~~

~~(e) Except as provided in (c) and (d) of this subsection, alcoholic beverages may be possessed, sold, served, and consumed at university facilities only under permits/licenses issued by the Washington state liquor control board and only as follows:~~

~~(i) Events at which alcohol is to be sold must be approved by the committee on the use of university facilities and an application to the committee must be accompanied by a request for written authorization under (f) of this subsection or proof that the seller holds an appropriate license; and~~

~~(ii) Events at athletic venues at which alcohol is to be possessed, sold, served, or consumed must not be within the spectator viewing areas and must have restricted attendance; and a university unit, or an individual or organization apply~~

~~ing for a permit/license must have obtained approval under (f) of this subsection; and~~

~~(iii) A university unit, or an individual or organization applying for a permit/license must have obtained approval under (f) of this subsection; and~~

~~(iv) Sale, service, and consumption of alcohol is to be confined to specified room(s) or area(s) specified on the license or permit. Unopened containers may not be sold or served. No alcohol is permitted to be taken off premises.~~

~~(f) Written authorization to apply for a special occasion license to sell alcoholic beverages or a banquet permit to serve and consume alcoholic beverages at university facilities must be obtained from the committee on the use of university facilities prior to applying for a special occasion license or banquet permit from the Washington state liquor control board. Authorization should be requested through the University of Washington, secretary to the committee on the use of university facilities, sufficiently in advance of the program to allow timely consideration. (Note: Some license applications must be filed with the Washington state liquor control board at least thirty days or more before the event.) Written authorization to apply for such a permit/license shall accompany the application filed with the Washington state liquor control board.~~

~~(g) Consumption, possession, dispensation, or sale of alcohol is prohibited except for persons of legal age)) The university will not make its facilities or services available to organizations which do not assure the university that they will comply with the terms of the Americans with Disabilities Act (ADA, 42 U.S.C. 12132, 12182) and the Rehabilitation Act of 1973 (RA, 29 U.S.C. 794). Uses must not impose restrictions nor alter facilities in a manner which would violate the ADA or RA.~~

~~(13) The university will not make its facilities or services available to organizations which do not assure the university that they do not discriminate against any person because of race, color, religion, national origin, sex, sexual orientation, age, handicap, or status as a Vietnam era or disabled veteran, except where such organizations have been exempted from provisions of applicable state or federal laws or regulations.~~

~~(14) Individuals who violate the university's use of facilities rules and approved users who violate university contract terms for use of facilities may be advised of the specific nature of the violation and, if continued, individuals may be requested to leave university property or be refused future use of university facilities. Failure to comply with a request to leave university property could subject such individuals to arrest and criminal prosecution under provisions of applicable state, county, and city laws.~~

AMENDATORY SECTION (Amending WSR 07-03-136, filed 1/23/07, effective 2/23/07)

WAC 478-136-035 No smoking policy for university facilities. (1) The University of Washington is committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. Accordingly, the University of Washington establishes the following no smoking policy, consistent with chapter 70.160 RCW (I-901), to protect individuals from exposure to second-hand

smoke in their university-associated environments and to protect life and property against fire hazards.

(a) Except as provided in subsection (1)(b) and (c) of this section, smoking of all kinds is prohibited in all university facilities, including, but not limited to, vehicles, inside all buildings owned, occupied, or managed by the university and/or used by the university's faculty, staff, students, or visitors, and at any outside areas or locations, including, but not limited to, bus shelters, benches, and walkways.

(b) Smoking, while not permitted in on-campus residence halls, may be permitted in a limited portion of designated university student housing in accordance with smoking regulations established for those facilities by the vice-president and vice-provost for student life, the appropriate chancellor, or their designees.

(c) Smoking may be permitted in specific designated outdoor locations approved by the director of environmental health and safety as smoking areas in accordance with chapter 70.160 RCW and published on the environmental health and safety web site. Signage also identifies the designated locations.

(2) Violations of the university no smoking policy are subject to enforcement by the University of Washington police department or other jurisdictional law enforcement agencies with regulatory responsibility. In addition, any student, staff, or faculty member who violates the university no smoking policy may be subject to disciplinary action.

NEW SECTION

WAC 478-136-041 Alcoholic beverage policy. Alcoholic beverages may be possessed, sold, served, and consumed at university facilities only if the procedures set forth in this section are followed.

(1) The appropriate permits/licenses for possession, sale, service, and consumption of alcohol must be obtained from the Washington state liquor control board.

(2) Permits/licenses must be displayed during the event and all other guidelines and restrictions established by the Washington state liquor control board must be followed.

(3) Alcoholic beverages may be possessed, sold, served, and consumed at the University of Washington club, as so designated by the university board of regents to the Washington state liquor control board, pursuant to a spirits, beer, and wine private club license issued by the Washington state liquor control board.

(4) Alcoholic beverages may be possessed, sold, served, and consumed at university facilities leased to a commercial tenant under a lease that includes authorization for the tenant to apply and hold a license issued by the Washington state liquor control board.

(5) Except as provided in subsections (3) and (4) of this section, alcoholic beverages may be possessed, sold, served, and consumed at university facilities only under permits/licenses issued by the Washington state liquor control board and only as follows:

(a) Events at which alcohol is to be sold must be approved by the appropriate committee chair for the committee on the use of university facilities and an application to the chair must be accompanied by a request for written authori-

zation under subsection (6) of this section or proof that the seller holds an appropriate license; and

(b) Events at athletic venues at which alcohol is to be possessed, sold, served, or consumed must not be within the spectator viewing areas and must have restricted attendance; and

(c) A university unit, or an individual or organization applying for a permit/license must have obtained approval under subsection (6) of this section; and

(d) Sale, service, and consumption of alcohol is to be confined to specified room(s) or area(s) identified on the license or permit. Unopened containers may not be sold or served. No alcohol is permitted to be taken off-premises.

(6) Written authorization to apply for a special occasion license to sell alcoholic beverages or a banquet permit to serve and consume alcoholic beverages at university facilities must be obtained from the appropriate committee chair for the committee on the use of university facilities prior to applying for a special occasion license or banquet permit from the Washington state liquor control board. Authorization should be requested sufficiently in advance of the program to allow timely consideration. (Note: Some license applications must be filed with the Washington state liquor control board at least thirty days or more before the event.) Written authorization to apply for such a permit/license shall accompany the application filed with the Washington state liquor control board.

(7) Consumption, possession, dispensation, or sale of alcohol is prohibited except for persons of legal age.

AMENDATORY SECTION (Amending WSR 03-24-045, filed 11/26/03, effective 12/27/03)

WAC 478-136-060 Safety and liability. (1) It is the responsibility of any person or organization requesting the use of university facilities to comply with all applicable university policies, procedures, rules and regulations, and applicable local, state and federal laws, including but not limited to fire, health and safety regulations.

(2) Permission to a nonuniversity organization (~~(or to)~~), a registered student organization, or an official student government for the use of university facilities is granted with the express understanding and condition that such organization assumes full responsibility for any loss, damage or claims arising out of such use.

When the event involves physical activity, the sale of alcohol, or otherwise will increase the risk of bodily injury above the level inherent in the facilities to be used, proof of appropriate liability insurance coverage with limits of at least \$1,000,000 per occurrence must be provided to the university's office of risk management before approval for the requested use will be granted.

AMENDATORY SECTION (Amending WSR 06-13-022, filed 6/13/06, effective 8/1/06)

WAC 478-137-030 Administrative authority. (1) The board of regents of the University of Washington and the board of trustees for Cascadia Community College have delegated to the chancellor of the university and the president of

the college, respectively, the authority to regulate the use of joint facilities on the colocated campus.

(2) Under this authority, the chancellor of the university and the president of the college designate the coordination for use of joint facilities to an appointed joint committee on facility use and designate the use of the wetlands to the wetlands oversight committee. The chancellor of the university and the president of the college shall each appoint representatives to the joint committee on facility use to develop suggested event procedures. Each designee shall review the use of the facilities; establish administrative procedures governing such use that are consistent with these rules; approve or disapprove requested uses and establish policies regarding fees and rental schedules unique to joint facilities as appropriate. Additionally, the joint committee on facility use shall act as an appeals board for decisions of the wetlands oversight committee regarding wetlands use requests. Inquiries concerning the use of joint facilities may be directed to:

University of Washington, Bothell
Office of Administrative Services
Joint Facilities Use Coordinator
Box 358535
18115 Campus Way N.E.
Bothell, WA 98011

(Phone: 425-352-3556 or e-mail: facuse@uwb.edu); and
Cascadia Community College
Finance and Operations Office
Director of Auxiliary Services and Capital Projects
18345 Campus Way N.E.
Bothell, WA 98011

(Phone: 425-352-8269).

(3) Preliminary approval of an event by an academic or administrative unit of the university or college implies that a responsible official has applied his or her professional judgment to the content of the program, the qualifications of the individuals conducting the event, the manner of presentation, and has concluded that the event is consistent with the teaching, research, and/or public service mission of the institutions.

(4) Final approval of a joint facilities use request by the appropriate designee on the use of joint facilities implies that the designee has reviewed the proposed event with regard to: The rules in this chapter; the direct and indirect costs to the institutions; environmental, health and safety concerns; wear and tear on the facilities; appropriateness of the event to the specific facility; and the impact of the event on the institutions, surrounding neighborhoods and the general public.

(5) The institutions will not make their joint facilities or services available to organizations that do not assure the institutions that they will comply with the terms of the Americans with Disabilities Act (ADA, 42 U.S.C. 12132, 12182) and the Rehabilitation Act of 1973 (RA, 29 U.S.C. 794). Uses must not impose restrictions nor alter facilities in a manner which would violate the ADA or RA.

(6) The institutions will not make their joint facilities or services available to organizations which do not assure the institutions that they do not discriminate against any person because of race, color, religion, national origin, sex, sexual orientation, age, handicap, or status as a Vietnam era or dis-

abled veteran, except where such organizations have been exempted from provisions of applicable state or federal laws or regulations.

(7) Individuals who violate the institutions' use of joint facilities regulations and approved users who violate the institutions' contract terms for use of joint facilities may be advised of the specific nature of the violation and individuals may be requested to leave the property or be refused future use of joint facilities. Failure to comply with a request to leave the property may subject such individuals to arrest and criminal prosecution under provisions of applicable state, county, and city laws.

WSR 10-13-113
PERMANENT RULES
BUILDING CODE COUNCIL

[Filed June 21, 2010, 9:14 a.m., effective June 21, 2010, 9:14 a.m.]

Effective Date of Rule: Immediately.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The rule only delays the effective date of another rule that is not yet effective.

Purpose: Amendment of chapter 51-11 WAC, the Washington State Energy Code.

This filing delays the effective date from July 1, 2010, to October 29, 2010, for the 2009 edition of the Washington State Energy Code, chapter 51-11 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11-0101, 51-11-0105, 51-11-0201, 51-11-0302, 51-11-0303, 51-11-0401, 51-11-0402, 51-11-0501, 51-11-0502, 51-11-0503, 51-11-0504, 51-11-0505, 51-11-0525, 51-11-0527, 51-11-0530, 51-11-0540, 51-11-0541, 51-11-0601, 51-11-0602, 51-11-0603, 51-11-0604, 51-11-0625, 51-11-0701, 51-11-0800, 51-11-0900, 51-11-1001, 51-11-1004, 51-11-1005, 51-11-1006, 51-11-1007, 51-11-1008, 51-11-1009, 51-11-1120, 51-11-1131, 51-11-1132, 51-11-1133, 51-11-1141, 51-11-1310, 51-11-1311, 51-11-1312, 51-11-1313, 51-11-1314, 51-11-1322, 51-11-1323, 51-11-1331, 51-11-1332, 51-11-1334, 51-11-1402, 51-11-1410, 51-11-1411, 51-11-1412, 51-11-1413, 51-11-1414, 51-11-1416, 51-11-1421, 51-11-1423, 51-11-1431, 51-11-1432, 51-11-1433, 51-11-1435, 51-11-1436, 51-11-1437, 51-11-1438, 51-11-1439, 51-11-1440, 51-11-1454, 51-11-1510, 51-11-1512, 51-11-1513, 51-11-1521, 51-11-1530, 51-11-1531, 51-11-1532, 51-11-99901, 51-11-99902, 51-11-99903 [and 51-11-99904]; new sections WAC 51-11-1135, 51-11-1200, 51-11-1444, 51-11-1445, 51-11-1446, and 51-11-1460; and suspending to October 29, 2010.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Adopted under notice filed as WSR 09-17-136 on August 19, 2009.

Changes Other than Editing from Proposed to Adopted Version:

- The requirement in Section 503.4.1 for variable speed motors was not adopted.
- The lighting requirements in Section 505.1 were changed to require fifty percent high efficacy lumi-

naires rather than fifty percent high efficiency lamps.

- Table 6-2 was added back to the code for Climate Zone 2 and envelope requirements were adjusted in stringency for that climate zone.
- Chapter 9 was retained, requiring single family buildings to achieve additional savings above and beyond the requirements in Chapters 4 through 6, but the number of credits required for approval was lowered from 2 to 1.
- The requirement in Section 1132.3 that would lower the threshold for replacing all lighting in commercial tenant improvements from sixty percent to twenty percent was not adopted.
- Section 1201 was modified to eliminate the exceptions and require all buildings to have a totalizing meter for each energy source.
- The requirement in Section 1314.6 for mandatory vestibules was not adopted.
- The new exception 2 to Section 1322 allowing for a decrease in perimeter insulation was not adopted.
- The increase in U-factors to mass walls in Tables 13-1 and 13-2 were not adopted, and the revisions to default Table 10-5(B) 1 were not adopted.
- Equations 13-1 and 13-2 were modified to reflect the additional component assemblies added to Tables 13-1 and 13-2.
- The requirement for stepped control of egress lighting in Section 1515 was not adopted.
- The added Table 15-1B was not adopted; and modifications were made to Table 15-1A, which goes back to being Table 15-1. Most modifications were to levels between the existing code and the proposed code.
- The requirement for automatic control of walkways and escalators in Sections 1550-1552 were not adopted.

FILING NOTE: Amendments to chapter 51-11 WAC, the Washington State Energy Code, were originally adopted by the state building code council on November 20, 2009, and filed under WSR 10-03-115 with an effective date of July 1, 2010. On June 11, 2010, the state building code council voted to file an amended rule-making order to change the effective date of the new rules to October 29, 2010, stating that the recovery of the construction industry is central to the continuing recovery of the Washington state economy from the recent unprecedented recession. Temporary delay in the effective date of the 2009 Washington State Energy Code is necessary to allow the construction industry to stabilize.

A final cost-benefit analysis is available by contacting Tim Nogler, P.O. Box 42525, Olympia, WA 98504-2525, phone (360) 725-2969, fax (360) 586-9383, e-mail sbcc@commerce.wa.gov.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 7, Amended 13, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 13, Repealed 0.

Date Adopted: June 11, 2010.

John C. Cochran
Council Chair

WSR 10-13-130
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Special Commitment Center)

[Filed June 22, 2010, 2:55 p.m., effective July 23, 2010]

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

Purpose: The purpose of these proposed rule changes is to update, clarify and better reflect current practices and changes in chapter 71.09 RCW as they relate to matters associated with the civil commitment process of sexually violent predators.

This filing includes the adoption of six new sections, WAC 388-880-056 How SCC considers a resident for release to an LRA, 388-880-057 How SCC considers a resident's revocation of LRA status, 388-880-058 How SCC considers a recommendation for a resident's unconditional discharge, 388-880-059 Communicating and coordinating resident discharge and conditional release related matters, 388-880-150 Requests for public disclosure, and 388-880-151 Requests for resident medical information.

Citation of Existing Rules Affected by this Order: Amending WAC 388-880-005, 388-880-007, 388-880-010, 388-880-030, 388-880-031, 388-880-033, 388-880-034, 388-880-035, 388-880-036, 388-880-040, 388-880-042, 388-880-043, 388-880-044, 388-880-045, 388-880-050, 388-880-055, 388-880-060, 388-880-070, 388-880-080, 388-880-090, 388-880-100, 388-880-110, 388-880-120, 388-880-130, and 388-880-140.

Statutory Authority for Adoption: Chapter 71.09 RCW.
Other Authority: RCW 72.01.090.

Adopted under notice filed as WSR 10-07-117 on March 22, 2010.

Changes Other than Editing from Proposed to Adopted Version:

- The reflection that there is a fourth type of evaluation that may occur related to a person's commitment or detention under chapter 71.09 RCW which is a "Post Commitment Evaluation," this change is supported in RCW 71.09.090.
- The elimination of some proposed language at the request of defense and prosecution which pertains to specific evaluator duties and responsibilities which was

felt to be already adequately described in chapter 71.09 RCW.

- The inclusion of two specific external governmental entities, by title, to receive notification of special commitment center decisions pertaining to sexually violent predator discharges and conditional releases.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 25, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 6, Amended 25, Repealed 0.

Date Adopted: June 15, 2010.

Katherine I. Vasquez
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 10-14 issue of the Register.

WSR 10-13-153
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed June 23, 2010, 8:32 a.m., effective July 24, 2010]

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

Purpose: The department held hearings in Olympia and Ellensburg on April 29 and May 10, 2010, to accept testimony on proposed amendments to chapter 16-54 WAC, Animal importation. Based on testimony received the department has decided to make changes to certain sections of the proposed language and conduct another hearing, therefore withdrawing WAC 16-54-010 Definitions, 16-54-068 Restrictions, 16-54-082 Domestic bovine animals—Importation requirements, 16-54-085 Domestic bovine tuberculosis requirements, and 16-54-086 Bovine trichomoniasis requirements.

The department proposed to amend chapter 16-54 WAC to create a definition for feral swine, add contagious equine metritis to import restrictions and amend the poultry test requirements. The following sections will be adopted as permanent rules: WAC 16-54-071 Domestic equine and equine reproductive products—Importation requirements, 16-54-090 Goats—Importation and testing requirements, 16-54-145 Poultry and game birds—importation and testing requirements, 16-54-160 Birds other than poultry—Importation and testing requirements, and 16-54-180 Wild and exotic animals—Importation and testing requirements.

Statutory Authority for Adoption: Chapter 16.36 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 10-12-078 on June 1, 2010.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: June 23, 2010.

June 23, 2010
Dan Newhouse
Director

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-071 Domestic equine and equine reproductive products—Importation requirements. Import health requirements.

(1)(a) In addition to the other requirements of this chapter, all (~~horses, donkeys, mules, and other~~) domestic equine and equine reproductive products entering Washington state must be accompanied by a certificate of veterinary inspection.

(b) Equine vaccinated against equine viral arteritis (EVA) must be accompanied by a vaccination certificate.

(c) Reproductive products from donors that test positive for EVA must be accompanied by an application and entry permit.

(d) Domestic equine from the western states of Oregon, Idaho, California, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, and New Mexico may enter Washington state for shows, rides, or other events either with a certificate of veterinary inspection or with a document similar to the Equine Certificate of Veterinary Inspection and Movement Permit. Individual trips cannot exceed ninety days.

(e) An itinerary of interstate travel must be filed with the department within fourteen days of the expiration of the movement permit.

(2) All certificates and forms may be obtained from and sent to:

Washington State Department of Agriculture
Animal Services Division
1111 Washington Street S.E.
P.O. Box 42577
Olympia, Washington 98504-2577

Exemptions to import health requirements.

(3) Horses traveling into Washington state with their Oregon or Idaho owners in private conveyance for round-trip visits of not more than four days duration for purposes other than breeding are exempt from the certificate of veterinary inspection.

Import test requirements.

Equine infectious anemia (EIA).

(4) All domestic equine, except foals under six months of age accompanying their negative tested dams, must have a negative test for equine infectious anemia (EIA) within twelve months before entering Washington state.

Exemptions to EIA test requirements.

(5) Domestic equine moving to Washington from Oregon are excluded from EIA test requirements.

Equine viral arteritis (EVA).

(6) Intact males over six months of age must test antibody negative for EVA within thirty days before entry into Washington state or have proof of vaccination.

(7) Vaccinated equine that test antibody positive for EVA must be accompanied by a certificate of veterinary inspection that provides proof of:

(a) A prevaccination negative antibody blood test;
(b) Vaccination within ten days of the prevaccination blood test; and

(c) Approved method of animal identification. Approved methods of identification are:

(i) Photograph or clearly drawn picture of the animal (both sides and front);
(ii) Brand (hot iron or freeze brand);
(iii) Microchip; and/or
(iv) Lip tattoo.

(8) Intact males over six months of age and equine reproductive products from donors that test positive for EVA may enter Washington state only if accompanied by an entry permit and a statement on the certificate of veterinary inspection verifying that the consignee:

(a) Has been advised of the positive antibody test results and the associated risks of EVA infection;

(b) Agrees to follow the recommendations of the Office International des Epizooties of the World Organization of Animal Health regarding EVA and USDA recommendations found in the *Equine Viral Arteritis Uniform Methods and Rules*, effective April 19, 2004; and

(c) Consents to the shipment.

(9) Intact males that test antibody positive for EVA are required to have an entry permit and may be subject to quarantine.

(10) Equine semen and embryos require an entry permit and must originate from donors that have proof of vaccination or a negative antibody test for EVA during the current breeding season.

(11) Equine semen and embryos from antibody positive donors must be used or implanted only in vaccinated or seropositive mares. These mares must be isolated for twenty-one days following insemination or implantation.

(12) Additional testing for EVA may be required during emergency disease conditions declared by the director.

Piroplasmiasis.

(13) Any equine that has ever tested positive for piroplasmiasis may not enter Washington state.

(14) Any equine that has originated from a country or state where piroplasmiasis is endemic must be negative to a C-ELISA test within thirty days before entry into Washington state, and must be quarantined upon arrival and retested within sixty to ninety days. Horses that test positive on the post-arrival C-ELISA test are not permitted to remain in the state and must be removed.

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-090 Goats—Importation and testing requirements. Import health requirements.

(1) All goats entering Washington state must be accompanied by a certificate of veterinary inspection. The certificate of veterinary inspection must state that the ~~((animals))~~ goats are free from clinical signs or known exposure to any infectious or communicable disease including, but not limited to, footrot, sore mouth, and caseous lymphadenitis.

(2) Female dairy goats six months of age or older must test negative for brucellosis and tuberculosis within thirty days before they enter Washington state.

(3) Sexually intact goats must have official USDA scrapie identification.

Exemption to import health requirements.

(4) Goats traveling into Washington state with their Oregon and Idaho owners in private conveyance for round-trip visits of not more than four days duration for purposes other than breeding are exempt from the certificate of veterinary inspection.

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-145 Poultry and game birds, including ratites—Importation and testing requirements. Import health requirements.

(1) All poultry ~~((and game birds, including ratites)),~~ excluding doves and pigeons, imported into Washington state must be accompanied by a ~~((certificate of veterinary inspection))~~ ;

(a) Certificate of veterinary inspection; or

(b) USDA NPIP VS form 9-3 (Report of Sales of Hatching Eggs, Chicks, and Poults); or

(c) USDA VS form 17-6 (Certificate for Poultry or Hatching Eggs for Export) ((will be accepted in lieu of the certificate of veterinary inspection)).

~~((b))~~ For hatching eggs and baby poultry, a USDA NPIP VS form 9-3 (Report of Sales of Hatching Eggs, Chicks, and Poults) may be used in lieu of the certificate of veterinary inspection.

~~((e))~~ (2) The certificate of veterinary inspection and the USDA VS form 17-6 must include either the NPIP number or negative results of the required tests.

~~((2))~~ (3) Poultry or hatching eggs must originate from flocks or areas not under state or federal restriction.

~~((3))~~ (4) Each ratite entering Washington state must be permanently identified with USDA approved identification. The type of identification must be listed on the certificate of veterinary inspection.

Import test requirements.

~~((4))~~ (5) Poultry ((and game birds must:

~~(a) Originate from)),~~ poults, and eggs, excluding doves and pigeons, that originate from flocks or hatcheries that have a pullorum-typhoid clean rating given by the state animal health official or are from an NPIP participant flock ((that has met)) must meet the classification requirements ((for pullorum typhoid, Salmonella enteritidis, and avian influenza; or

~~(b) Test negative within thirty days before entering Washington for pullorum typhoid, S. enteritidis, and avian influenza. Serum testing or NPIP member status is also required for the following species:~~

~~(i) Bobwhite quail (Colinus virginianus).~~

~~(ii) Coturnix quail (Coturnix coturnix).~~

~~(iii) Pure or hybrid Ring-necked pheasant (Phasianus colchicus).~~

~~(iv) Chukar (Alectoris chukar).~~

~~(v) Hungarian partridge (Perdix perdix).~~

~~(5) Hatching eggs must originate from an NPIP participant flock that has met classification requirements for the diseases listed in subsection (4)(a) of this section. If the parent breeder flock is not an NPIP participant, the parent birds must be tested for the above diseases within thirty days before entry.~~

~~(6) Turkeys and wild turkeys, their poults, and eggs must originate from a producer who is participating in the mycoplasmosis control phase of the NPIP or must have been tested serologically negative for M. gallisepticum and M. synoviae within thirty days of entry.)~~ stated in subsection (8) of this section.

(6) If poultry do not originate from an NPIP participant flock, they must test negative for the diseases listed in subsection (8) of this section thirty days before entry into the state of Washington.

(7) If hatching eggs are from non-NPIP participant flocks, then the parent breeder flock must be tested for the diseases in subsection (8) of this section within thirty days before the hatching eggs enter the state of Washington.

(8) Poultry, excluding doves and pigeons, must have a negative test for the following diseases:

<u>Disease control classifications</u>	<u>Poultry type</u>			
	<u>Egg-type chickens</u>	<u>Meat-type chickens</u>	<u>Turkeys</u>	<u>Other¹</u>
<u>Pullorum-typhoid</u>	YES	YES	YES	YES ²
<u>Avian influenza</u>	YES	YES	YES	YES
<u>Mycoplasma gallisepticum</u>	=	=	YES	=
<u>Mycoplasma synoviae</u>	=	=	YES	=
<u>Salmonella enteritidis</u>	YES (commercial) ³	=	=	=

¹Waterfowl, hobby, fancy, exhibition chickens, game birds, ratites, and backyard flocks.

²Excluding waterfowl.

³Commercial means producers with three thousand or more birds regardless of shipment size.

Exemptions to import health requirements.

~~((7))~~ (9) Doves, pigeons, waterfowl, game birds, and poultry destined for immediate slaughter are exempt from the certificate of veterinary inspection and testing requirements.

AMENDATORY SECTION (Amending WSR 08-14-057, filed 6/25/08, effective 7/26/08)

WAC 16-54-160 Birds other than poultry, including exotic birds—Importation and testing requirements. Import health requirements.

(1) All birds other than poultry entering Washington state require a certificate of veterinary inspection that contains the following statement:

"To the best of my knowledge, the birds listed on this certificate are not infected with exotic Newcastle disease, psittacosis, or avian influenza and have been free from clinical signs of or known exposure to infectious or communicable disease during the past thirty days."

(2) All birds must be individually identified with a numbered leg band or in a manner appropriate to the species.

Exemptions to import health requirements.

(3) Family pet birds are exempt from the certificate of veterinary inspection and identification requirements if they:

- (a) Are two or less in number; and
- (b) Have not been purchased within thirty days of entry into Washington state; and
- (c) Are traveling by private conveyance with their owners.

WILD AND EXOTIC ANIMALS (~~AND BIRDS~~), INCLUDING ZOO ANIMALS

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-180 Wild and exotic animals (~~and birds~~)—Importation and testing requirements. Import health requirements.

(1) Wild and exotic animals (~~and birds~~) entering Washington state must be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian licensed in the state of origin, or accompanied by an international certificate of health.

(2) All wild and exotic animals must be accompanied by an entry permit.

Import test requirements.

(3) **Brucellosis:** Within thirty days before entering Washington state, negative serologic testing must be conducted on the following categories of captive wild or exotic animals that are more than six months of age:

**Table 1.
Wild and exotic animals that must be tested for brucellosis**

Tested For	Species Scientific Name	Common Name Examples
<i>Brucella abortus</i>	<i>Camelidae</i>	<ul style="list-style-type: none"> • Vicuna • Guanaco
	<i>Cervidae</i>	<ul style="list-style-type: none"> • Elk • Caribou • Moose • Reindeer • Deer
	<i>Giraffidae</i>	<ul style="list-style-type: none"> • Giraffe • Okapi
	<i>Bovidae</i>	<ul style="list-style-type: none"> • Antelope • Wild cattle (gaur, banteng, kaupre, yak) • Bison (American bison, European bison) • Buffalo (Asian water buffalo, tamaraw, lowland anoa, mountain anoa, African buffalo)
	<i>Ovidae, Capri- dae</i>	<ul style="list-style-type: none"> • Wild sheep (big-horn sheep, ((dalls)) <u>Dall's</u> sheep, mouflon, argoli, uriol, blue sheep, barbary sheep, red sheep) • Wild goats (Rocky Mountain goat, ibex, walia ibex, west ((eae- easion)) <u>Cauca- sian</u> tur, east ((eae- easion)) <u>Caucasian</u> tur, Spanish ibex, markhor)

Table 1.
Wild and exotic animals that must be tested for brucellosis

Tested For	Species Scientific Name	Common Name Examples
<i>Brucella suis</i>	<i>Suidae</i>	• Wild swine (European wild boar, bearded pig, Jovan pig, pygmy hog, wart hog, giant forest pig, East Indian swine or Babirusa, African bush pig, peccaries)
<i>Brucella suis biovar 4</i>	Cervidae	• Caribou • Reindeer
<i>Brucella ovis</i>	<i>Ovidae, Capridae</i>	• All wild sheep and goats must be tested and found negative to <i>Brucella ovis</i> within thirty days before entering Washington state

(4) **Tuberculosis** (*Mycobacterium bovis* and *Mycobacterium tuberculosis*):

(a) Animals less than six months of age that are nursing negative tested dams may be excluded from tuberculosis test requirements.

(b) Within thirty days before entering Washington state, the animals listed in the following table must test negative for *M. bovis* and *M. tuberculosis* by a skin test or other approved test that follows federal tuberculosis protocols:

Table 2.
Wild and exotic animals that must be tested for tuberculosis

Species Scientific Name	Common Name Examples
<i>Ceropithecidae</i>	• Old world primates
<i>Elephantidae</i>	• <u>Elephants</u> ¹
<i>Hylobotidae</i>	• Gibbons
	• Lesser apes
<i>Pongidae</i>	• Great apes
<i>Bovidae</i>	• Antelope
	• Wild cattle
<i>Ovidae, Capridae</i>	• Wild sheep
	• Wild goats
<i>Cervidae, Giraffidae</i>	• Elk
	• Caribou
	• Moose

Table 2.
Wild and exotic animals that must be tested for tuberculosis

Species Scientific Name	Common Name Examples
	• Reindeer
	• Deer
	• Giraffe
	• Okapi

¹Negative trunk wash or other USDA-validated tuberculosis test every twelve months.

(c) *Cervidae*, such as elk, deer, caribou, moose, and reindeer and *Giraffidae*, such as giraffe and okapi, must be from herds not known to be infected with, exposed to, or affected by tuberculosis. They must also test negative for *M. bovis* using the testing requirements defined in Title 9 CFR Part 77.33 (January 1, 2006).

(d) For all captive wild or exotic animals not listed in Table 2 in subsection (2)(b) of this section, the following statement signed by the animal's owner or agent must be placed on the official certificate of veterinary inspection:

"To my knowledge, the animals listed on this certificate are not infected with tuberculosis and have not been exposed to animals infected with tuberculosis during the past twelve months."

(5) **Pseudorabies:** All wild swine imported for zoos, exhibitions or to a research facility must test negative for pseudorabies no more than thirty days before entry into Washington state and must be held in quarantine for thirty to sixty days pending a postentry retest.

(6) **Equine infectious anemia:** All wild horses, donkeys, and hybrids of the family *Equidae* must test negative on an approved test for equine infectious anemia no more than six months before entry into Washington state.

(7) **Elaphostrongylinae** (*Parelaphostrongylus tenis* (meningeal worm) and *Elaphostrongylus cervis* (muscle worm)): Before entering Washington state, all *Cervidae* must be examined for *Elaphostrongylinae* infection in the absence of anthelmintic treatment that could mask detection of the parasite.

(a) **All *Cervidae* residing for at least six months** west of a line through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas or geographical boundaries as otherwise designated by the state veterinarian must have a negative fecal exam for dorsal-spined larvae made by an approved laboratory using the Baermann technique (~~and~~). Animals must be certified that they have not been treated with or exposed to anthelmintics for at least thirty days before testing.

(b) **All *Cervidae* residing for less than six months** west of a line through the eastern boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas or geographical boundaries as otherwise designated by the state veterinarian or from east of that line must be held in a pre-entry quarantine for thirty to sixty days and have two fecal tests for dorsal-spined larvae made by an approved laboratory using the Baermann technique.

(i) The first test must be conducted at least thirty days and not more than forty days before the second test.

(ii) Fecal samples of at least thirty grams per sample are to be collected by an accredited veterinarian from the animal's rectum and identified by the animal's official identification number.

(iii) During the thirty-day testing period, test animals must be held in quarantine and isolated from all other *Cervidae* not included in the shipment.

(iv) If any animal tests positive to either of the two fecal tests, neither that animal nor any other animal held in quarantine with the infected animal may be imported into Washington state.

(c) All imported *Cervidae* must be held for one hundred eighty days in an onsite quarantine and be available for inspection by the director during this time.

(d) Every thirty, sixty, ninety, one hundred twenty, one hundred fifty, and one hundred eighty days after arrival, fecal samples from the animals must be tested by the Baermann technique in an approved laboratory and be found negative for dorsal-spined larvae. Animals that test positive for dorsal-spined larvae must either be removed from Washington state or destroyed.

(e) To prevent the presence of the gastropod intermediate hosts of *Elaphostrongylinae* larvae, the quarantine site must be prepared and inspected before the imported animals enter. Preparation includes:

(i) Providing a hard surface, such as asphalt or concrete, on which to keep the animals;

(ii) Spraying the quarantine area with an EPA-registered molluscicide; and

(iii) Spraying a four-meter wide tract around the perimeter of the holding compound with an EPA-registered molluscicide. This perimeter tract must be treated once every five days and within twenty-four hours of precipitation (10 mm or more) to ensure that the gastropod population is kept to zero within the compound.

(8) **Rabies:** Any carnivorous mammal taken from the wild is prohibited from entering Washington state if rabies has been diagnosed in the state of origin during the past twelve months.

WSR 10-13-164

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

(Division of Developmental Disabilities)

[Filed June 23, 2010, 8:53 a.m., effective July 24, 2010]

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

Purpose: The department is amending WAC 388-850-045 in order to revise the county funding formula to comply with state budget appropriations.

Citation of Existing Rules Affected by this Order: Amending WAC 388-850-045.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.020.

Other Authority: Chapter 564, Laws of 2009 PV 61st legislature 205 (1)(n), chapter 34.05 RCW.

Adopted under notice filed as WSR 10-08-081 on April 6, 2010.

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

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

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

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

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

Date Adopted: June 15, 2010.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-015, filed 5/9/05, effective 6/9/05)

WAC 388-850-045 ((Funding formula—Developmental disabilities.)) What is the formula for distribution of funding to the counties?

(1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties shall be based on the following criteria:

~~(a) ((Each county shall receive a base amount of funds. The amount shall be based on the prior biennial allocation, including any funds from budget provisos from the prior biennium, and subject to the availability of state and federal funds;~~

~~(b))~~ The distribution of ~~((any additional))~~ funds provided by the legislature or other sources shall be based on a distribution formula which best meets the needs of the population to be served~~((as follows:~~

~~(i) On a basis which))~~.

~~(b) The distribution formula~~ takes into consideration ~~((minimum grant amounts,))~~ requirements of clients residing in an ICF/MR or clients on one of the division's Title XIX home and community-based waivers, ~~((and the general population of the county, and))~~ the number of children eligible for birth to three services, special education enrollment, the number of individuals receiving county funded services, the number of individuals enrolled with the division and the general population of the county ~~((as well as the population eligible for county-funded developmental disabilities services;))~~.

~~((ii) On a basis that takes into consideration the population numbers of minority groups residing within the county;~~

~~(iii) A biennial adjustment shall be made after these factors are considered; and~~

~~(iv) Counties not receiving any portion of additional funds pursuant to this formula shall not have their base allocation reduced due to application of this formula.~~

~~(e) Funding appropriated through legislative proviso, including vendor rate increases, shall be distributed to the population directed by the legislature utilizing a formula as directed by the legislature or using a formula specific to that population or distributed to identified people;~~

~~(d)) (c) The ability of the community to provide funds for the developmental disability program provided in chapter 71A.14 RCW may be considered with any or all of the above.~~

(3) A county may utilize seven or less percent of the county's allocated funds for county administrative expenses. A county may utilize more than seven percent for county administration with approval of the division director. ~~((A county electing to provide all services directly, in addition to county administration, is exempt from this requirement.))~~

~~((4) The department may withhold five or less percent of allocated funds for new programs, for statewide priority programs, and for emergency needs.))~~

WSR 10-13-166

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services)

[Filed June 23, 2010, 8:55 a.m., effective July 24, 2010]

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

Purpose: The department is amending WAC 388-831-0240 to maintain consistency with waiver rules in chapter 388-845 WAC regarding criteria for termination from the community protection program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-831-0240.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Adopted under notice filed as WSR 10-08-082 on April 6, 2010.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: June 15, 2010.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-118, filed 9/30/08, effective 10/31/08)

WAC 388-831-0240 Can I be terminated from the community protection program? You may be terminated from the community protection program by the division if:

(1) You physically assault program participants, staff or others;

(2) You repeatedly elope from the program or evade supervision;

(3) You engage in illegal behavior of any kind; or

(4) You refuse to comply with program and/or treatment guidelines to the extent that your therapist determines you are not amenable to treatment; ~~((or))~~ and

(5) The division determines that your health and safety needs cannot be met in the program.

WSR 10-13-167

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medicaid Purchasing Administration)

[Filed June 23, 2010, 8:57 a.m., effective July 24, 2010]

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

Purpose: The department is eliminating coverage for electrical neural stimulation devices and supplies (including battery chargers and all other supplies for client-owned devices) for in-home use.

Citation of Existing Rules Affected by this Order: Amending WAC 388-543-1150, 388-543-1300, 388-543-1600, 388-543-2800, 388-545-300, and 388-545-500.

Statutory Authority for Adoption: Section 1109, chapter 564, Laws of 2009 (ESHB 1244), WAC 388-501-0055, RCW 74.08.090.

Adopted under notice filed as WSR 10-08-086 on April 6, 2010.

A final cost-benefit analysis is available by contacting Erin Mayo, DSHS-HRSA, P.O. Box 45560, Olympia, WA 98504-5560, phone (360) 725-1729, fax (360) 586-9727, e-mail Erin.Mayo@dshs.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: June 23, 2010.

Susan N. Dreyfus
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 10-14 issue of the Register.

WSR 10-13-169

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed June 23, 2010, 9:08 a.m., effective July 24, 2010]

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

Purpose: The rules adopt a new chapter in WAC and establish a fee schedule for initial certification surveys of health care facilities. The rules are in response to 2007 legislation (SHB 2087) and 2009 legislation (ESHB 1244). This legislation authorizes the department to assess set fees to conduct initial certification surveys for health care facilities in the event of insufficient federal funding.

Statutory Authority for Adoption: RCW 40.70.125.

Adopted under notice filed as WSR 10-05-032 on February 9, 2010.

Changes Other than Editing from Proposed to Adopted Version: The department removed language in WAC 246-319-990 (2) and (3) that required applicants to obtain an initial certification survey from a national accreditation organization rather than the department when such accrediting organizations were available. Such requirements were not specifically identified in the authorizing legislation and therefore have been removed.

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

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

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

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

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

Date Adopted: June 22, 2010.

Mary C. Selecky
Secretary

Chapter 246-319 WAC

**INITIAL MEDICARE CERTIFICATION SURVEY
FEE SCHEDULE**

NEW SECTION

WAC 246-319-990 Fees. Purpose: This chapter implements RCW 43.70.125 allowing the department to assess a fee for the department to conduct an initial medicare survey. An applicant for medicare certification must pay the fee whenever the department has not received sufficient funding from the Centers for Medicare and Medicaid Services.

(1) Definitions. The definitions in this section apply throughout this section unless the context clearly requires otherwise.

(a) "Initial medicare certification survey" means an on-site visit conducted by department staff for the purpose of determining compliance with medicare regulations. This survey is required before a health care provider can receive medicare or medicaid reimbursement.

(b) "Insufficient funding" means the department has spent or encumbered eighty percent of the total available Title XVIII medicare grant award to complete required certification activities.

(c) "Sufficient funding" means the department has received, through the Title XVIII medicare grant, funds intended to fully reimburse the department for all required certification activities in the annual grant.

(d) "Title XVIII grant priority" means the four tier system established by the Centers for Medicare and Medicaid Services that guides state agencies to complete certification activities in accordance with statutory mandates and Centers for Medicare and Medicaid Services policy.

(e) "Title XVIII medicare grant" means the grant authorized in Section 1864(a) of the Federal Social Security Act and administered by the Centers for Medicare and Medicaid Services to the department to fund the annual certification activity requirements.

(2) The department will not charge a fee to conduct initial medicare certification surveys as long as sufficient funding exists.

(3) Notice of insufficient funding. When insufficient funding exists to complete the Title XVIII grant priority, the department will:

(a) Issue a notice to all potentially affected health care providers and provider associations known by the department; and

(b) Charge a fee according to the fee schedule in subsection (4) of this section to all applicants who apply for initial medicare certification surveys after the notice is issued.

(4) Fees. The following fees will be charged to an applicant to conduct an initial medicare certification survey when there is insufficient funding:

Ambulatory surgery center	\$ 1,815
Critical access hospital	\$ 2,015
End stage renal disease facility	\$ 980
Home health agency	\$ 2,285
Hospice agency	\$ 2,285

Hospital	\$ 2,285
Rehabilitation facility	\$ 520
Rural health clinic	\$ 690
Transplant hospital	\$ 7,000

Fee categories	Current Fees	Portion Suspended	Temporary Fees
Engineer late renewal penalty	\$174	\$((24)) <u>60</u>	\$((150)) <u>114</u>
Surveyor	\$116	\$((16)) <u>40</u>	\$((100)) <u>76</u>
Surveyor late renewal penalty	\$174	\$((24)) <u>60</u>	\$((150)) <u>114</u>

**WSR 10-13-171
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed June 23, 2010, 9:59 a.m., effective August 1, 2010]

Effective Date of Rule: August 1, 2010.

Purpose: Amendments to chapter 196-26A WAC are necessary to make a reduction in renewal fees charged to licenses. These adjustments are being made to assure revenue collections are consistent with expenditures and do not result in an over-collection.

Citation of Existing Rules Affected by this Order: Amending WAC 196-26A-110.

Statutory Authority for Adoption: RCW 18.43.080.

Other Authority: RCW 43.24.086.

Adopted under notice filed as WSR 10-09-036 on April 14, 2010.

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

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

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

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

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

Date Adopted: June 10, 2010.

R. Osgood
Assistant Director
Business and Professions Division

AMENDATORY SECTION (Amending WSR 06-06-019, filed 2/21/06, effective 3/24/06)

WAC 196-26A-110 Suspended fees. Effective (~~July 1, 2006~~) August 1, 2010, the following fees will have the listed portions suspended from collection until July (~~1, 2008~~) 31, 2012.

Fee categories	Current Fees	Portion Suspended	Temporary Fees
License Renewals:			
Engineer	\$116	\$((16)) <u>40</u>	\$((100)) <u>76</u>

**WSR 10-13-182
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 10-156—Filed June 23, 2010, 11:46 a.m., effective July 24, 2010]

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

Purpose: Adopt new chapter 232-36 WAC, Wildlife interaction regulations.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055.

Adopted under notice filed as WSR 10-06-123 on March 3, 2010.

Changes Other than Editing from Proposed to Adopted Version:

WAC 232-36-020 Purpose.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

WAC 232-36-030 Definitions.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

The definition of "immediate threat of physical harm" was modified to delete the phrase: "the game animal is in close proximity to the human." The term proximity was too vague and not commonly understood; therefore, concerns were expressed that animals may be killed when not warranted.

A definition of a "wildlife control operator" was added to clarify what qualifies a person to become certified to assist landowners in addressing conflicts caused by wildlife.

WAC 232-36-040 Wildlife/human interaction and conflict resolution for private property damage.

The title was modified to more accurately reflect the content of the rule.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

WAC 232-36-050 Killing wildlife for personal safety.

This rule was separated into two rules, one dealing with killing wildlife for personal safety and another for addressing killing wildlife to address property damage. This rule is now specific to personal safety.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

WAC 232-36-051 Killing wildlife causing private property damage.

This rule was separated into two rules, one dealing with killing wildlife for personal safety and another for addressing killing wildlife to address property damage. This rule is now specific to killing wildlife to address property damage.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

The language in subsection (1)(a)(ii) was modified to clarify that the authority to kill a big game animal while damaging crops is only available when the owner has an agreement with the department. Subsection (1)(a)(iii) was added to clarify that one big game animal may be killed in the act of attacking pets or livestock. Under subsection (1)(a)(iv), the word [word] "kill" was reinstated for clarity.

The rules for disposal of wildlife taken under this chapter are deleted from this rule and addressed in a separate rule, WAC 232-36-055.

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

The legal disposal of wildlife taken under this chapter is identified in this rule.

WAC 232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

The language under subsection (1)(f) was modified to delete the sentence regarding a waving of the fee for participants who do not plan to charge a fee. It would be difficult to monitor whether fees are charged and everyone should pay for the cost of developing and providing the training.

This rule was modified so that the requirements for certification of wildlife control operators (WCO) are distinct from the permit regulations for WCOs addressed in WAC 232-36-065.

WAC 232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions.

Under subsection (3), the word "written" was replaced with "the," consistent with WAC 232-36-040.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

This rule stipulates the permit conditions and regulations for WCOs.

WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

Under subsection (6)(e), the words "certified third party" were deleted to address public comment regarding on-farm storage of harvested crops.

Subsection (7)(a) was modified to stipulate that crop damage assessments must be performed by state licensed crop insurance adjustors who are certified by the federal crop insurance corporation. Subsection (7)(b) was modified to require owners to use an adjustor who is approved by the department and that the cost of the assessment will be shared between the owner and the department. This was changed because of public comment and to make the payment of adjustor fees more consistent and fair. Subsection (7)(c) was modified to clarify that both the department or the owner could hire and pay for a separate assessment or evaluation of the initial assessment of crop loss and value.

Subsection (9) was modified to eliminate a deductible and clarify how the licensed crop adjustor's fees would be paid by the department. This was changed because of public comment and to clarify how an adjustor would be paid.

WAC 232-36-120 Valuation methods for crop damage assessment.

The language was modified to stipulate that crop damage assessments must be performed by state licensed crop insurance adjustors who are certified by the federal crop insurance corporation.

The last sentence of this rule was deleted because the process for conducting a separate assessment or evaluation was included in WAC 232-36-110.

WAC 232-36-200 Payment for commercial livestock damage—Limitations.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

The requirement for an owner to open their property for hunting in order to receive payment for livestock losses was deleted. This was changed because of public comment and because hunting access would be encouraged regardless of whether it is a condition for payment of losses.

WAC 232-36-210 Application for cash compensation for commercial livestock damage—Procedure.

The notification period was changed from twelve hours to twenty-four hours to provide a more reasonable amount of time to contact the department.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

Language was added to subsection (2)(a) to ensure that with the added notification time the evidence at the depredation site is preserved.

The deductible was removed, there are other criteria in the rules that ensure that use of department staff time will be efficient.

WAC 232-36-300 Public hunting requirements.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

Language was added to clarify that the property where crop damage is claimed must have been open to public hunting the year prior to the damage occurrence. In those cases where the landowner did not have an agreement in place with the department, this is to ensure that the landowner attempted to control the damage prior to when it occurred.

WAC 232-36-400 Commercial crop or livestock damage claim—Dispute resolution.

Several language and grammatical edits were made throughout chapter 232-36 WAC to improve readability and understanding of the rules.

WAC 232-36-500 Unlawful taking or possession of wildlife for personal safety or causing property damage—Penalties.

Several edits were made throughout this rule to improve understanding of the penalties associated with violation of these rules.

WAC 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports.

Changes were made to this rule to improve understanding of the penalties for violation of permit conditions and agreements developed under the authority of chapter 232-36 WAC.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 18, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: June 4, 2010.

Miranda Wecker, Chair
Fish and Wildlife Commission

Chapter 232-36 WAC**WILDLIFE INTERACTION REGULATIONS**NEW SECTION

WAC 232-36-010 Introduction. The Washington department of fish and wildlife's (department) primary responsibility is to preserve, protect, perpetuate, and manage the fish and wildlife species of the state (RCW 77.04.012). The department promotes conservation of fish and wildlife,

while providing fishing, hunting, fish and wildlife viewing, and other outdoor recreational opportunities compatible with healthy, diverse, and sustainable fish and wildlife populations. (RCW 77.04.012, 77.04.020, and 77.04.055.)

NEW SECTION

WAC 232-36-020 Purpose. Public support for the recovery and management of healthy wildlife populations is an important aspect of wildlife conservation. Support for wildlife can diminish when people experience negative interactions with wildlife and damage to private property. The intent of the department is to provide technical advice and assistance to property owners to prevent and mitigate damages caused by wildlife. Compensation may be necessary in situations where preventative measures are not successful or when circumstances, outside the control of the private property owner, get in the way of resolving negative wildlife interactions.

NEW SECTION

WAC 232-36-030 Definitions. Definitions used in rules of the fish and wildlife commission are defined in RCW 77.08.010, and the definitions for wildlife interactions are defined in RCW 77.36.010. In addition, unless otherwise provided, the following definitions are applicable to this chapter:

"Act of damaging" means that private property is in the process of being damaged by wildlife, and the wildlife are on the private property, which contains commercial crops, pasture, or livestock.

"Big game" means those animals listed in RCW 77.08.030.

"Claim" means an application to the department for compensation under this chapter.

"Claimant" means owner of commercial crop or livestock who has filed a wildlife damage claim for cash compensation.

"Commercial crop" means a commercially raised horticultural and/or agricultural product and includes the growing or harvested product, but does not include livestock, forest land, or rangeland. For the purposes of this chapter, Christmas trees and managed pasture grown using agricultural methods including one or more of the following: Seeding, planting, fertilizing, irrigating, and all parts of horticultural trees, are considered a commercial crop and are eligible for cash compensation.

"Commercial livestock" means cattle, sheep, and horses held or raised by a person for sale.

"Compensation" means a cash payment, materials, or service.

"Completed written claim" means that all of the information required on a department crop or livestock damage claim form is supplied and complete, including all supplemental information and certifications required to process the claim.

"Damage" means economic losses caused by wildlife interactions.

"Damage claim assessment" means department approved methods to evaluate crop loss and value caused by

deer or elk damage to commercial crops, or livestock losses and value caused by bear, cougar, or wolves.

"Eligible farmer" means an owner who satisfies the definition of eligible farmer pursuant to RCW 82.08.855 (4)(b)(i) through (iv).

"Emergent" means an unforeseen circumstance beyond the control of the landowner or tenant, that presents a real and immediate threat to crops, domestic animals, or fowl.

"Game animal" means wild animals that shall not be hunted except as authorized by the commission.

"Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

"Immediate threat of physical harm" means that animal-to-human bodily contact is imminent; and the animal is in attack posture/mode.

"Owner" means a person who has a legal right to commercial crops, commercial livestock, or other private property that was damaged during a wildlife interaction.

"Physical act of attacking" means actual or imminent animal-to-human physical contact.

"Public hunting" means an owner satisfies the "public hunting" requirement for his or her land, as defined in WAC 232-36-300.

"Wild animal" means those species of the class Mammalia whose members exist in Washington in a wild state.

"Wildlife control operator" means a person who has successfully completed the training and obtained one or more levels of certification from the department to assist landowners to prevent or control problems caused by wildlife.

"Wildlife interaction" means the negative interaction and the resultant damage between wildlife and commercial crops, commercial livestock, or other property.

NEW SECTION

WAC 232-36-040 Wildlife/human interaction and conflict resolution for private property damage. The department is the primary source for property owners seeking to determine legal and effective remedies for addressing wildlife interactions. Protection of property using nonlethal techniques is the primary response encouraged by the department. Harassment and/or lethal removal may also be important techniques to protect human safety or to protect property. The following criteria describe the compensation available to protect property that does not qualify under commercial crop or livestock damage:

(1) Unless specifically appropriated by the legislature, cash compensation will not be provided to property owners by the department.

(2) Compensation will be prioritized in the following order:

(a) Property prioritization:

(i) Private property that is primarily designed for public use, where there is a human safety risk not addressed by other entities.

(ii) Private property that directly contributes to commercial crop or livestock production.

(iii) Private property used for other business purposes.

(iv) Public property.

(v) Residential property.

(vi) Recreational property.

(b) Species prioritization:

(i) Damages caused by wildlife listed as endangered, threatened, sensitive, or categories of concern by the state or federal government.

(ii) Damages caused by big game animals.

(iii) Other federal and state protected species.

(iv) Other wildlife species except unclassified species and predatory birds.

(3) The department may make agreements with private landowners to prevent property damage. These agreements may include the use of:

(a) Best management practices to reduce risk of private property damage;

(b) Scaring or hazing materials;

(c) Fencing materials;

(d) Volunteers referred by the department for hazing, fence repair, etc; and

(e) Lethal removal options.

(4) Private property owners must utilize nonlethal abatement techniques prior to requesting other compensation from the department or before utilizing lethal techniques as outlined in WAC 232-36-050.

(a) Use of nonlethal techniques must be documented and consistent with procedures and requirements established by the department.

(b) Evidence of damage (e.g., photographs) must be provided by the property owner.

(c) Property owner must comply with reporting requirements of the department.

(5) Wildlife may not be captured and transported or relocated off the owner's property (parcel where damage occurred) unless:

(a) Authorized by rule of the commission; or

(b) By written permit from the department; and

(c) Owner is in compliance with department rules, permits, and reporting requirements.

(6) The department will establish written procedures for assisting private property owners, using the criteria and priorities provided in this rule. The procedures will include enlistment of partners and volunteers through agreements, permits, and incentives to help mitigate wildlife interactions.

NEW SECTION

WAC 232-36-050 Killing wildlife for personal safety.

(1) The fish and wildlife commission is authorized to classify wildlife as game, as endangered or protected species, or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is threatening human safety.

(2) The conditions for killing wildlife vary, based primarily on the classification of the wildlife species and the imminent nature of the threat to personal safety. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife for per-

sonal safety is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(3) Killing wildlife for personal safety.

(a) It is permissible to kill wild animals engaged in the physical act of attacking a person.

(b) It is permissible to kill game animals posing an immediate threat of physical harm to a person.

NEW SECTION

WAC 232-36-051 Killing wildlife causing private property damage. The fish and wildlife commission is authorized to classify wildlife as game, as endangered or protected species, or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing property damage.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) Killing wildlife causing damage to a commercial crop or commercial livestock.

(a) It is permissible to kill unclassified wildlife, predatory birds, and big game animals that are in the act of damaging commercial crops or livestock, under the following conditions:

(i) Predatory birds (defined in RCW 77.08.010(39)) and unclassified wildlife that are in the act of damaging commercial crops or livestock may be killed with the express permission of the owner at any time on private property, to protect commercial crops or livestock.

(ii) An owner with a valid, written damage prevention agreement with the department may kill an individual (one) big game animal while it is in the act of damaging commercial crops.

(iii) An individual (one) big game animal may be killed during the physical act of attacking livestock or pets.

(iv) Multiple big game animals may be killed while they are in the act of damaging commercial crops or livestock if the owner is issued a kill permit by the department.

(v) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.

(b) It is unlawful to kill protected species (as defined in WAC 232-12-011) or endangered species (as defined in WAC 232-12-014) unless authorized by commission rule or

with a permit from the department, with the following additional requirements:

(i) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(ii) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage or killing wildlife to prevent private property damage.

(a) Predatory birds (as defined in RCW 77.08.010(39)), unclassified wildlife, and eastern gray squirrels may be killed with the express permission of the property owner at any time, to prevent private property damage on private real property.

(b) Subject to subsection (7) of this section, the following list of wildlife species may be killed with the express permission of the owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

(c) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may include special hunting season permits such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.

(d) Landowners are encouraged to allow general season hunters during established hunting seasons on their property to help minimize damage potential and concerns.

(3) Wildlife control operators may assist property owners under the conditions of their permit, as established in WAC 232-36-060 and 232-36-065.

(4) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements and harvest restrictions.

(5) Hunting licenses and tags are not required to kill wildlife under this section, unless the killing is pursuant to subsections (2)(c) and (d) of this section. Tribal members operating under subsection (4) of this section are required to meet tribal hunting license, tag, and permit requirements.

(6) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC.

NEW SECTION

WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage. The fish and wildlife commission is authorized pursuant to RCW 77.36.030, to establish the limitations and conditions on disposal of wildlife killed or trapped because they were threatening human safety or causing property damage.

Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this title are subject to the laws and rules of the state including, but not limited to, those found in Titles 77

RCW and 220 and 232 WAC. Wildlife taken under this chapter remains the property of the state and may be disposed of in the manner and under the conditions that follow:

(1) Wildlife taken under WAC 232-36-050 (1)(b) and 232-36-051 (1)(b), and 232-36-051 (1)(a)(iii) must be reported to the department within twenty-four hours, and the animal and all parts must be provided to the department or its designees.

(2) Wildlife taken under WAC 232-36-051 (1)(a)(i) and (ii) becomes the property of the private landowner and may be lawfully disposed consistent with state laws and rules including, but not limited to, Titles 77 RCW and 232 WAC.

(3) Wildlife taken under WAC 232-36-051 (1)(a)(iv) must be disposed of consistent with the conditions identified under the permit.

(4) Wildlife taken under WAC 232-36-051(2) may be lawfully possessed by the owner, licensee, and/or permit holder. Possession of legally taken wildlife by tribal members is subject to the laws of their tribe and must be consistent with their agreement with the state.

NEW SECTION

WAC 232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications. For purposes of training individuals to assist landowners with employing nonlethal management techniques, or to harass, kill, trap, release, and dispatch animals that are causing damage to private property, the director or his/her designee may issue wildlife control operator (WCO) certifications.

(1) To qualify for WCO certification, applicants must:

(a) Be at least eighteen years of age;

(b) Take and complete the department's WCO certifications course;

(c) Be certified by the department and have the equipment, knowledge, and ability to control the wildlife species causing conflict or property damage;

(d) Be legally eligible to possess a firearm and without a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW, unless firearm possession rights have been restored;

(e) Not have a gross misdemeanor fish and wildlife conviction within the last five years; and

(f) Pay the enrollment fee for certification training/education. After July 1, 2010, this fee shall be fifty dollars (RCW 77.12.184).

(2) Once a person is granted WCO certification, he or she must apply for a permit pursuant to WAC 232-36-065 in order to harass, kill, trap, release, or dispatch animals causing damage to private property.

NEW SECTION

WAC 232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions. For purposes of assisting property owners in managing animals causing damage to private property, the director or his/her designee may issue permits to wildlife control operators (WCOs). Only WCOs who are certified by the department qualify for such a permit.

(1) If the certification for a WCO included training for the use of live traps, the WCO may use live traps to capture any animal causing an animal problem, as that term is defined in RCW 77.15.192.

(2) Depending on a WCO's certification training, he or she may use body gripping traps, but only if he or she complies with RCW 77.15.194.

(3) WCOs who trap wildlife under the authority of a department permit may not release or dispose of such wildlife without the consent of the property owner where the wildlife is to be released or disposed.

(4) WCOs must submit a complete annual report of all control activity on the form supplied by the department. The report must be received or postmarked on or before the twentieth day of April each year. Failure to submit a report may result in the department revoking the WCO's certification and permit and suspending the person's right to future certification and permits.

(5) WCO certification and permits will be revoked and future certification and permits denied by the director or issuing authority when, in the judgment of the department:

(a) Information contained in a WCO's application was inaccurate or false;

(b) The WCO fails to comply with department statutes or rules; or

(c) The WCO violates a trapping or other wildlife law.

(6) A WCO who provides false or misleading information in his or her WCO certification application may be punished under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and permit may be punished under RCW 77.15.750. A WCO who violates trapping or other wildlife laws may be punished under the appropriate statute in Title 77 RCW for that crime.

(7) If the initial application for WCO certification is denied or revoked, or the application to renew a WCO's certification is denied or revoked, the department shall provide the applicant, in writing, a statement of the specific reason(s) for the denial or revocation. The applicant may request an appeal in accordance with chapter 34.05 RCW. Appeal requests shall be filed in writing and returned within twenty days from the mailing date of the denial and be addressed to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.

(8) WCO certification and permits are valid for three years.

(9) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee or other consideration without a WCO certification and permit.

(10) The department may develop additional conditions and procedures, to include training requirements, for WCOs consistent with this rule.

NEW SECTION

WAC 232-36-100 Payment for commercial crop damage—Limitations. Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the

legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and shall be paid only to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage shall not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

- (1) The claim is for a noncommercial crop;
- (2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);
- (3) The loss estimate is less than one thousand dollars;
- (4) No claim will be processed unless the owner provides the department with an approved checklist of the preventative and nonlethal means that have been employed, and the owner has complied with the terms and conditions of his or her agreement(s) with the department;
- (5) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash. Acceptance of noncash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop;
- (6) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others is eligible for compensation from the department;
- (7) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300 for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;
- (8) The crop is grown or stored on public property;
- (9) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;
- (10) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within WAC 232-36-110;
- (11) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;
- (12) The owner or designee has harvested commercial crops without an investigation completed under the direction of the department; or
- (13) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

NEW SECTION

WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure. Pursuant to this section, the department may distribute money appropriated by the legislature to pay commercial crop damage caused by wild deer or elk in the amount of up to ten thousand dollars

per claim, unless following an appeal the department is ordered to pay more (see RCW 77.36.130(2)). The department shall develop claim procedures and application forms consistent with this section for cash compensation of commercial crop damage. Partnerships with other public and private organizations to assist with completion of applications, assessment of damage, and to provide funding for compensation are encouraged.

Filing a claim:

- (1) Owners who have worked with the department to prevent deer or elk damage, yet who still experience loss and meet eligibility requirements, may file a claim for cash compensation.
- (2) The claimant must notify the department within seventy-two hours of discovery of crop damage and at least seventy-two hours prior to harvest of the claimed crop.
- (3) A complete, written claim must be submitted to the department within sixty days of when the damage stops.
- (4) Owners may only file one claim per year. Multiple partners in a farming operation are considered one owner. Operations involving multiple partners must designate a "primary grower" to receive payment from the department.
- (5) The claim form declaration must be signed, affirming that the information provided is factual and truthful per the certification set out in RCW 9A.72.085, before the department will process the claim.
- (6) In addition to a completed claim form, an applicant must provide:
 - (a) A copy of applicant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service indicating the applicant's gross sales or harvested value of commercial crops for the previous tax year.
 - (b) The assessment method used consistent with WAC 232-36-120, valuation of property damage.
 - (c) Applicant must provide proof of ownership of claimed commercial crops or contractual lease of claimed commercial crops consistent with department procedural requirements for submission of documents.
 - (d) Written documentation of approved methodology used to assess and determine final crop loss and value.
 - (e) Applicant must provide records documenting average yield on claimed crop and parcel, certified yield reports, production reports and weight certificates completed at the time weighed for claimed year, and other applicable documents that support yield loss and current market price. Current market price will be determined less transportation and cleaning costs when applicable.
 - (f) Declaration signed under penalty of perjury as provided in RCW 9A.72.085, indicating that the applicant is eligible for the claim, meets eligibility requirements listed under this section, and that all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.
 - (g) Copy of the insurance policy and payment on the commercial crop where loss is claimed.
 - (h) Copy of application for other sources of loss compensation and any payment or denial documentation.

Damage claim assessment:

- (7) Damage claim assessment of amount and value of commercial crop loss is the primary responsibility of the

claimant. A crop damage evaluation and assessment must be conducted by a licensed crop insurance adjustor:

(a) The owner must submit a damage claim assessment prepared by a crop insurance adjustor licensed by the state of Washington and certified by the federal crop insurance service.

(b) The department will provide the claimant with a list of approved adjustors. The owner must select an adjustor from the approved list and arrange for the completion of a crop damage assessment. Adjustor fees will be the shared responsibility of the owner and the department.

(c) The department or the owner may accept the damage claim assessment provided by the licensed adjuster or may hire a state licensed adjustor of their choosing and conduct a separate assessment or evaluation of the crop loss amount and value. The party hiring an adjustor to conduct a separate assessment or evaluation is responsible for payment of all fees.

(8) Disagreement between the claimant and the department over the crop loss value may be settled through an adjudicative proceeding.

Settlement of claims:

(9) Subject to money appropriated to pay commercial crop damage, undisputed claims will be paid, less one-half of the crop adjustor's fee or a maximum of six hundred dollars for the owner's share of the crop adjustor's fee. The crop adjustor's fee is not subject to the ten thousand dollar payment limit per owner.

(10) Compensation paid by the department, in addition to any other compensation received by the claimant, may not exceed the total value of the assessed crop loss.

(11) The owner will be notified by the department upon completion of the evaluation and has sixty days to accept or appeal the department's offer for settlement of the claim, or the claim is considered satisfied and not subject to appeal.

(12) The department shall prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the first fiscal year of a biennium, the claim shall be held over until the following fiscal year when funds become available. Claims that are carried over will take first priority and receive payment before any new claims are paid. Claims will not be carried from one biennium to the next.

NEW SECTION

WAC 232-36-120 Valuation methods for crop damage assessment. Several methods may be used to determine the extent of a crop damaged by deer and elk and the lost value of the crop resulting from the damage. Assessment methods used by qualified crop adjustors licensed by the state and certified by the federal crop insurance service will be accepted by the department. Evaluation of crop losses must consider other impacts to crop production, including fertilization, irrigation, precipitation, weather, timing of planting or harvest, and weed control. The following methods are listed in preferred order based on reliability:

(1) Amount consumed - relies on wildlife-proof enclosures in the field; clipping similar sized plots inside and outside of enclosures; then comparing yields.

(2) Amount of stored crops consumed or damaged - determine the bales or pounds of stored crops consumed or destroyed; then determine replacement value.

(3) Replacement value of horticultural trees lost as a result of damage; partial loss due to damage can be estimated per tree based on the percentage destroyed.

(4) Damage vs. undamaged areas - using random sampling methods to compare the yields of damaged to undamaged portions of a field or two similar fields can provide an estimate of loss. Comparing similar fields assumes the fields are truly "similar" (soil type, aspect, slope, irrigation, fertilization, stand age, etc.).

(5) Animal use - count the number of animals causing damage and the number of days they were present; then estimate the percentage of daily intake provided by the crop (generally less than fifty percent), and the amount of waste, trampling, or trailing; the result should also consider the timing of the damage and potential recovery of the vegetation prior to crop harvest.

(6) Decrease from average yield - historic yields can be used for comparison; the difference between average yield and current yield may shed light on the extent of damage; changing weather or crop growing conditions from one year to the next make this technique less reliable.

NEW SECTION

WAC 232-36-200 Payment for commercial livestock damage—Limitations. Owners who have worked with the department to prevent depredation but continue to experience losses, or who experience unforeseen losses, may be eligible to file a damage claim and receive cash compensation. Cash compensation will only be provided to livestock owners by the department when specifically appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of commercial livestock caused by wild bears, cougars, or wolves and shall be paid only to the owner of the livestock at the time of damage, without assignment. Cash compensation for livestock losses from bears, cougars, and wolves shall not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages including veterinarian services. The department is authorized to pay up to two hundred dollars per sheep and one thousand five hundred dollars per head of cattle or per horse, and no more than ten thousand dollars to the commercial livestock owner per claim.

Claims for cash compensation will be denied when:

(1) Funds for livestock compensation have not been specifically appropriated by the legislature;

(2) The claim is for livestock other than sheep, cattle, or horses;

(3) The owner of the commercial livestock does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(4) The loss estimate is less than five hundred dollars;

(5) The owner fails to provide the department with an approved checklist of the preventative and nonlethal means that have been employed, or the owner failed to comply with the terms and conditions of his or her agreement(s) with the department;

(6) The owner has accepted noncash compensation to offset livestock losses in lieu of cash. Acceptance of noncash compensation will constitute full and final payment for livestock losses within a fiscal year;

(7) Damages to the commercial livestock claimed are covered by insurance or are eligible for payment from other entities. However, any portion of the damage not covered by others is eligible for filing a claim with the department;

(8) The owner fails to provide on-site access to the department or designee for inspection and investigation of alleged attack or to verify eligibility for claim;

(9) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within this chapter;

(10) No claim will be processed if the owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

(11) The owner or designee has salvaged or rendered the carcass or allowed it to be scavenged without an investigation completed under the direction of the department; or

(12) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

NEW SECTION

WAC 232-36-210 Application for cash compensation for commercial livestock damage—Procedure. Pursuant to this section, the department may distribute money specifically appropriated by the legislature to pay commercial livestock losses caused by wild bear, cougar, or wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130(2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of commercial livestock losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

(1) Owners who have worked with the department to prevent livestock depredation, yet who still experience loss or losses that occur under emergent situations, may file a claim for cash compensation if they meet eligibility requirements.

(2) Claimant must notify the department within twenty-four hours of discovery of livestock attack.

(3) Damage claim assessment of amount and value of commercial livestock loss is the primary responsibility of the claimant.

(4) Assessment of loss will be conducted by the department:

(a) The owner must provide access to department staff or designees to investigate the cause of death or injury to livestock and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

(5) Claimant must request a damage claim application within ten days of a loss.

(6) A complete, written claim must be submitted to the department within sixty days of an attack on commercial livestock.

(7) The claim form declaration must be signed, affirming that the information provided is factual and truthful, before the department will process a claim.

(8) In addition to a completed claim form, an applicant must provide:

(a) A copy of applicant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service indicating the applicant's gross sales or value of commercial livestock for the previous tax year.

(b) Claimant must provide proof of legal ownership or contractual lease of claimed livestock.

(c) Claimant must provide records documenting livestock value based on current market price.

(d) Declaration signed under penalty of perjury indicating that the applicant is eligible for the claim, meets eligibility requirements listed under this section, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(e) Copy of any insurance policy covering livestock loss claimed.

(f) Copy of application for other sources of loss compensation and any payment or denial documentation.

Settlement of claims:

(9) Subject to money appropriated to pay for commercial livestock losses, undisputed claims will be paid up to ten thousand dollars.

(10) Compensation paid by the department, in addition to any other compensation, may not exceed the total value of the assessed livestock loss.

(11) Upon completion of the evaluation, the department will notify the owner of its decision to either deny the claim or make a settlement offer (order). The owner has sixty days from the date received to accept the department's offer for settlement of the claim or to submit an appeal of the order. The response must be in writing and the signed document may be mailed or submitted by fax or e-mail. If no written acceptance or request for appeal is received, the offer is considered rejected and not subject to appeal.

(12) The department will prioritize payment for commercial livestock losses in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial livestock losses during the first fiscal year of a biennium, the claim shall be held over until the following fiscal year when funds become available. Claims that are carried over will take first priority and receive payment before any new claims are paid. Claims will not be carried from one biennium to the next.

NEW SECTION

WAC 232-36-300 Public hunting requirements. "Public hunting" generally means that land is open for

licensed hunters. The intent of the provision in this chapter is to allow hunting at an appropriate time, manner, and level to help prevent property damage.

As specified in WAC 232-36-100, cash compensation will only be paid when the property where the damage occurred is open to public hunting. Public hunting is defined as:

(1) The landowner opens the property on which the damage or loss is claimed for general access to all licensed hunters during the season prior to the occurrence of damage; or

(2) The landowner has entered into and complied with any agreement with the department covering the land(s) on which the damage is claimed. Access agreements shall require that:

(a) The land is open to general access to licensed hunters; or

(b) The landowner allows the department to select a limited number of hunters who are authorized to access the land; or

(c) The landowner and the department determine how hunters will be selected and authorized to hunt on the landowner's property in order to effectively prevent damage.

NEW SECTION

WAC 232-36-400 Commercial crop or livestock damage claim—Dispute resolution. For claims where the owner has met all claim eligibility criteria and procedures, but ultimately rejects the written settlement offer (order) for crop or livestock loss and/or value assessment, the provisions of this section shall apply:

Informal resolution:

(1) If the owner rejects the property loss or value assessment and would like to discuss a negotiated settlement, he or she can request a meeting by notifying the department in writing within ten days of receiving the settlement offer or claim denial (order).

(2) A department representative and the owner or designee(s) will meet and attempt to come to mutual resolution.

(3) Monetary compensation or noncash compensation, mutually agreed upon by both the department and owner, shall be binding and constitute full and final payment for claim.

(4) If parties cannot agree upon damages, the owner may elect to apply for an adjudicative proceeding pursuant to chapter 34.05 RCW.

Adjudicative proceeding:

(5) If the owner wishes to appeal the claim denial or the department settlement offer (order), the owner may request an adjudicative proceeding consistent with chapter 34.05 RCW within sixty days of receiving the original order.

(6) The request must comply with the following:

(a) The request must be in writing, and the signed document may be mailed or submitted by fax or e-mail;

(b) It must clearly identify the order being contested (or attach a copy of the order);

(c) It must state the grounds on which the order is being contested and include the specific facts of the order that are relevant to the appeal; and

(d) The request must identify the relief being requested from the proceeding (e.g., modifying specific provisions of the order).

(7) The proceeding may only result in the reversal or modification of an order when the preponderance of evidence shows:

(a) The order was not authorized by law or rule;

(b) A fact stated in the order is materially incorrect;

(c) The award amount offered is inconsistent with applicable and accepted procedures, rule, and/or law; or

(d) Material information or evidence was made available by the owner at the time of the damage assessment, but was not considered in the order.

(8) The burden of proof is on the appellant (owner) to show that he or she is eligible for a claim and that the damage assessment is reliable (see RCW 77.36.130(4)).

(9) Findings of the hearings officer are subject to the annual funding limits appropriated by the legislature and payment rules (WAC 232-36-110(12) and 232-36-210(9)) of the commission.

NEW SECTION

WAC 232-36-500 Unlawful taking or possession of wildlife for personal safety or causing property damage—Penalties. (1) The unlawful trapping, killing, or possession of wildlife is punishable under Title 77 RCW including, but not limited to, the following:

(a) RCW 77.15.120 for endangered wildlife;

(b) RCW 77.15.130 for protected wildlife;

(c) RCW 77.15.140 for unclassified wildlife;

(d) RCW 77.15.170 for wildlife wastage;

(e) RCW 77.15.190 and 77.15.194 for unlawful trapping or traps;

(f) RCW 77.15.290 for transportation of wildlife;

(g) RCW 77.15.400 for wild birds;

(h) RCW 77.15.410 for big game;

(i) RCW 77.15.420 for illegally taken or possessed wildlife; and

(j) RCW 77.15.430 for wild animals.

(2) A person trapping or killing wildlife who fails to notify the department pursuant to WAC 232-36-055 may be in violation of RCW 77.15.750(1).

NEW SECTION

WAC 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports. (1) Failure to abide by the conditions of permits is a misdemeanor pursuant to RCW 77.15.750.

(2) Failure to provide reports or abide by the conditions of landowner agreements is an infraction pursuant to RCW 77.15.160.

(3) Failure to abide by the conditions of wildlife conflict operator permits is a misdemeanor pursuant to RCW 77.15.750.

(4) A person who provides false or misleading information required by this chapter may be in violation of RCW 9A.76.175 or 40.16.030.