

WSR 10-17-008
PROPOSED RULES
SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed August 5, 2010, 12:02 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: SRCAA Regulation I, Article X, Section 10.04 - Fee Waiver, Section 10.06 - Registration and Operating Permit Fees for Air Contaminant Sources, Section 10.07 - Application and Permit Fees for Notice of Construction and Application for Approval (NOC) and For Notice of Intent to Install and Operate a Temporary Stationary Source (NOI), Section 10.08 - Miscellaneous Fees, Section 10.10 - Solid Fuel Burning Device Exemptions, Section 10.11 - Oxygenated Gasoline, Section 10.12 - Agricultural Burning Fees, Section 10.13 - Outdoor Burning Permit Fees, and Section 10.14 - Paving Waiver Fees.

Hearing Location(s): Spokane Regional Clean Air Agency (SRCAA), 3104 East Augusta Avenue, Spokane, WA 99207, on October 7, 2010, at 9:30 a.m.

Date of Intended Adoption: October 7, 2010.

Submit Written Comments to: Matt Holmquist, 3104 East Augusta Avenue, Spokane, WA 99207, e-mail mholmquist@spokanecleanair.org, fax (509) 477-6828, by 4:30 p.m. on October 5, 2010.

Assistance for Persons with Disabilities: Contact Barbara Nelson by 4:30 p.m. on September 30, 2010, (509) 477-4727.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 10.04 - Fee Waiver, remove the fee waiver for financial hardship; Section 10.06.B - Registration Fees, clarify that the per stack/per point fee may include sources of fugitive emissions (e.g., crushing operations) and indicate that the board "may" amend the fee schedule to more accurately recover program costs versus "shall" amend the fee schedule; Section 10.06.C.3 - Air Operating Permit Fees, reference the hourly fee of \$67 per hour in the fee schedule versus \$65 per hour to more accurately reflect actual costs; Section 10.07.A.2 - Notice of Construction and Notice of Intent Fees, add a complex permit condition revision fee for occasions when dispersion modeling, impact analysis, or emission calculations are required and indicate that the board "may" amend the fee schedule to more accurately recover program costs versus "shall" amend the fee schedule; Section 10.08.B - Miscellaneous Fees, indicate that the board "may" amend the fee schedule to more accurately recover program costs versus "shall" amend the fee schedule; Section 10.11 - Oxygenated Gasoline, remove the section header since the requirements were repealed in 2005; Section 10.12 - Agricultural Burning Fees, reference agricultural burning permits set by the agricultural burning practices and research task force in chapter 173-430 WAC; Section 10.13 - Outdoor Burning Permit Fees, move the Outdoor Burning Fees to a fee schedule and decrease the hourly review fee from \$65 per hour to \$55 per hour to better reflect actual hourly costs for staff that perform this review; and Section 10.14.A - Paving Waiver Fees, move

the Paving Waiver Fees to a fee schedule and leave the filing fee at \$50, but increase the hourly review fee from \$50 per hour to \$55 per hour after the first hour of review to more accurately reflect actual costs.

Reasons Supporting Proposal: Refer above.

Statutory Authority for Adoption: RCW 70.94.141(1) and 70.94.380(2).

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Matt Holmquist, SRCAA, 3104 East Augusta Avenue, Spokane, WA 99207, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local clean air agency rule and as such, chapter 19.85 RCW does not apply.

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule.

August 5, 2010

Matt Holmquist

Compliance Administrator

Spokane Regional Clean Air Agency (SRCAA) Regulation I

AMENDATORY SECTION

SECTION 10.04 FEE WAIVER

~~((A. Except for air operating permit sources, the Control Officer may waive payment of all, or a portion, of any fee or service charge required by this Article upon a showing deemed sufficient by the Control Officer that payment of the fee would cause financial hardship upon the applicant.~~

~~B. The Control Officer may identify categories of sources, or groups of sources within a category, in Section 10.04.C. with similar emissions units and processes where the Control Officer determines that any of the following conditions exist:~~

~~1. Facility-wide emission rates are less than 1 ton per year of air contaminants; or~~

~~2. There are no specific regulations on the control of air contaminants; or~~

~~3. Compliance with control requirements is readily accomplished through nontechnical self-inspection techniques; or~~

~~4. The primary purpose for registration, pursuant to Article IV, is to inventory air contaminant emissions.~~

~~As categories are so identified, the Control Officer may waive one-half of the annual registration fee for owners or operators of individual facilities who provide emission inventory data, and other required information relative to compliance with applicable regulations, within 30 days of the request by the Authority, in a format acceptable to the Authority. In so doing, the owner or operator shall certify to the best of his/her knowledge, on forms provided by the Authority, that the emission inventory data is accurate and the facility is in compliance with applicable regulations. Owners or operators who fail to return the information within~~

30 days of the request will not qualify for a fee waiver under this Section. Notwithstanding the provision of required data by the owner or operator, the Authority reserves the right to conduct inspections of the facility.

C. The following categories of sources are eligible for the fee waiver specified in Section 10.04.B. However, individual sources are not eligible if one or more Notices of Violation have been issued by the Authority, pursuant to Section 2.04 of this Regulation, to the facility in the previous 36-month period:

Source Category	Rating
Surface Coating Operations	<1 ton/yr VOC emitted
Gasoline Dispensing Facilities	Exempt from stage II vapor recovery requirements
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Natural Gas Combustion	<10 ⁷ BTU/hr heat input
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Other Fossil Fuel Combustion	<10 ⁶ BTU/hr heat input
Dry-Cleaning Plants	<140 gal/yr solvent consumption
Waste Oil Burners	<500,000 BTU/hr heat input
Tire Recapping Facilities	All units in the category
Grain Elevators	All units with no on-site processing capability

AMENDATORY SECTION

SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

A. Each source required by Article IV, Section 4.01 to be registered, each air operating permit source, and each source required by Article V, Section 5.02 to obtain an approved Notice of Construction and Application for Approval is subject to an annual fee for each calendar year, or portion of each calendar year, during which it operates. The owner or operator shall pay the fee, pursuant to the requirements in Section 10.02. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source required by Article IV, Section 4.01 to be registered and that is not subject to Section 10.06.C. of this Regulation shall be determined by adding all of the applicable fees below:

1.

Registration Fee Categories	Fee	Fee Applicability
Facility Fee ^A	Per the Fee Schedule	Per Source
Emissions Fee ^B	Per the Fee Schedule	Per Ton
Emission Point Fee ^C	Per the Fee Schedule	Per Stack/Point
((Burn Out Oven/Incinerator Fee ^D))	Per the Fee Schedule	Per Source
Synthetic Minor Fee ((^F)^D)	Per the Fee Schedule	Per Source
WEDS Fee ((^F)^E)	Per the Fee Schedule	Per Hour

~~((a.))~~ ^A Each source is subject to the fee listed in the fee schedule.

~~((b.))~~ ^B The additional fee ~~((listed))~~ applies to each ton (rounded to the nearest one-tenth of a ton) of each criteria pollutant, volatile organic compound, and toxic air pollutant emitted.

~~((c.))~~ ^C The additional fee applies to each stack and other emission points, including sources of fugitive emissions (e.g., fugitive dust emissions from crushing operations; storage piles; mixing and clean-up associated with surface coating). For gasoline stations, each gasoline tank vent is an emission point.

~~((d.))~~ ^D The additional fee listed applies to each source which operated at least one incinerator or burn out oven during the registration period).

~~((e.))~~ ^D The additional fee ~~((listed))~~ applies to each Synthetic Minor ~~((source as defined in SRCAA Regulation I, Article I, Section 1.04))~~.

~~((f.))~~ ^E The additional fee ~~((listed))~~ applies to each source required by the ~~((Authority))~~ Agency to submit an annual emissions inventory for entry into the Washington Emission Data System (WEDS). SRCAA staff time spent processing and reviewing WEDS will be tracked in 15 minute increments and charged at the hourly rates provided ~~((above))~~ in the fee schedule.

2. The Board shall periodically review the fee schedule for registered sources and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Agency shall account for program costs, including employee costs and overhead. If the Board determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board ~~((shall))~~ may amend the fee schedule to more accurately recover program costs.

C. The annual fee for each air operating permit source shall be determined as follows:

1. The Board shall periodically review the fees for air operating permit sources and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revision

sions shall include opportunity for public review and comment. Accordingly, the Agency shall account for program costs, including employee costs and overhead. If the Board determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board shall amend the fees to more accurately recover program costs.

2. For sources that are subject to the air operating permit (AOP) program during any portion of the calendar year:

- a. Annual base fee of \$3,000;
- b. Emission fee of \$31.11 per ton of actual emissions from the previous calendar year;
- c. SRCAA time fee, as determined by the following formula:

$$TF_I = \frac{(H_I + H_G) \times RPC}{H_I}$$

Where,

TF_I is the SRCAA time fee for AOP source, I;

H_I is the total SRCAA staff hours spent on AOP source, not including time spent on Notice of Construction application reviews, I;

H_G is the total general hours SRCAA staff spent on the AOP program divided by the total number of sources subject to the AOP program during any portion of the calendar year;

RPC is the remaining SRCAA AOP program cost, calculated by subtracting the sum of the Section 10.06.C.2.a and b. fees from the total SRCAA AOP program costs; and

H_T is the total number of hours SRCAA staff spent on the AOP program, including total time spent on the AOP sources and general hours spent on the AOP program.

Note: H_I, H_G, H_T, and RPC are for the most recent SRCAA fiscal year.

Note: H_I, H_G, and H_T are obtained from SRCAA time accounting records.

d. AOP Program Cost Correction, as determined by the following formula:

$$PCC_I = \frac{\text{AOP Program Cumulative Deficit or Surplus} \times F_I}{F_T}$$

Where,

PCC_I is the AOP Program Cost Correction assessed to each AOP source, I;

AOP Program Cumulative Deficit or Surplus is the cumulative financial deficit or surplus for SRCAA's AOP program at the end of the most recent SRCAA fiscal year;

F_I is the total individual fee assessed pursuant to Section 10.06.C.2.a., b., and c., of this Regulation; and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.C.2.a., b., and c. of this Regulation.

e. A share of the assessment by Ecology pursuant to RCW 70.94.162(3), as determined by the following formula:

$$I = \frac{F_I \times A_E}{F_T}$$

Where,

I is the individual share of the assessment;

F_I is the total individual fee assessed pursuant to Section 10.06.C.2.a., b., and c. of this Regulation;

A_E is the total Ecology assessment pursuant to RCW 70.94.162(3); and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.C.2.a., b., and c. of this Regulation.

3. For affected units under Section 404 (Acid Deposition Standards) of the Federal Clean Air Act (42 USC 7401 et seq):

a. ~~((A fee of \$65 per hour of))~~ For time expended in carrying out the fee eligible activities specified in RCW 70.94, an hourly fee will be assessed pursuant to the fee schedule; and

b. A share of the assessment by Ecology pursuant to RCW 70.94.162(3), as determined by the following formula:

$$I = \frac{F_I \times A_E}{F_T}$$

Where,

I is the individual share of the assessment;

F_I is the total individual fee assessed pursuant to Section 10.06.C.3.a. of this Regulation;

A_E is the total Ecology assessment pursuant to RCW 70.94.162(3); and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.C.3.a. of this Regulation.

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

AMENDATORY SECTION

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL (NOC) AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY STATIONARY SOURCE (NOI)

A. NOC and NOI Fees

1. Base Fee

a. For each project required by Article V to file a NOC or a NOI, the applicant shall pay a base fee pursuant to the fee schedule. Base fee classes are listed below.

1) Class I - Notice of Intent Permit

Notice of Intent permits for portable stationary sources and temporary stationary sources include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Asphalt plant	15
(b) Concrete batch plant/ready mix plant	22
(c) Rock crusher	36

2) Class II - Simple Notice of Construction Permit

Simple permits generally conform to a template and involve minimal off-site impact evaluation. They include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Boiler and other fuel-burning equipment	27
(b) Coffee roaster	20
(c) Concrete batch plant/ready mix plant	22
(d) Dry cleaner	23
(e) Emergency generator	52
(f) Gasoline dispensing facility	28
(g) Lithographic printing/screen printing	9.e.5
(h) Material handling that exhausts ≥ 1,000 acfm	24
(i) Rock crusher	36
(j) Spray booth/surface coating operation	57
(k) Stationary internal combustion engine	53
(l) Sterilizer	9.e.8
(m) Stump/wood waste grinder	54

3) Class III - Standard Notice of Construction Permit

Standard permits generally include those that don't conform to a template and involve minimal off-site impact evaluation. They include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Soil and groundwater remediation operation	9.e.7
(b) Burn out oven	43
(c) Chrome plating	35
(d) Incinerator/crematory	31

4) Class IV - Complex Notice of Construction Permit

Complex permits generally include those that don't conform to a template and involve more complex off-site impact evaluation. They include the following:

<u>Source/Source Category Description</u>	<u>Article IV, Exhibit R Category</u>
(a) Asphalt plant	15
(b) Composting	21
(c) Refuse systems	48
(d) Rendering	49
(e) Sewerage systems	50

b. For sources/source categories not listed in Section 10.07.A.1.a, above, NOI and NOC application review will be assigned to Class I, II, III or IV by the Control Officer on a case-by-case basis.

c. For sources with one or more emission points under one NOC application, as allowed in Section 5.02.G, a separate base fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if

the same set of emission calculations can be used to characterize emissions from each of the emissions units.

2. Modification/Revision Fee

a. Equipment Modification Fee

Applicants of sources requesting a change in equipment (e.g., replacement or substantial alteration of emission control technology) pursuant to Section 5.10.C of this Regulation shall pay an equipment modification fee pursuant to the fee schedule.

b. Permit Condition Revision Fee

Applicants of sources requesting a change in conditions pursuant to Section 5.10.C of this Regulation shall pay a permit condition revision fee pursuant to the fee schedule, except when a complex permit condition revision fee is required pursuant to Section 10.07.A.2.c.

c. Complex Permit Condition Revision Fee

Applicants of sources requesting a change in conditions pursuant to Section 5.10.C of this Regulation shall pay a complex permit condition revision fee pursuant to the fee schedule when dispersion modeling, impact analysis, or emission calculations are required which are not covered under Section 10.07.A.3.

3. Additional Fees (for each application)

a. SEPA Review Fee

Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an Addendum to, or adoption of, an existing environmental document pursuant to the State Environmental Policy Act (SEPA) Chapter 197-11 WAC is required, in association with a NOC or a NOI, the applicant shall pay a SEPA or EIS review fee pursuant to the fee schedule.

b. Toxics Review Fee

For any new source of air pollution which requires review pursuant to Chapter 173-460 WAC, a toxic air pollutant review fee shall be paid. For sources with one or more emission points under one NOC application, as allowed in Section 5.02.G, a separate toxic air pollutant review fee applies to each emissions unit, or each group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units. The toxic air pollutant review fee shall be as follows:

1) Small Quantity Emission Rate (SQER)

For a new source using WAC 173-460-080 (2)(e), SQER, to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070 & WAC 173-460, the applicant shall pay a SQER review fee pursuant to the fee schedule.

2) Dispersion Modeling

For a new source using dispersion screening models (e.g., EPA SCREEN or TSCREEN) under WAC 173-460-080 (2)(c) to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, the applicant shall pay a dispersion modeling review fee pursuant to the fee schedule.

3) Advanced Modeling

For a new source using more refined dispersion models (e.g., EPA ISC3) under WAC 173-460-080 (2)(c) to demonstrate that ambient impacts are sufficiently low to protect

human health and safety, as required WAC 173-460-070; or for a new or modified source using a second tier analysis under WAC 173-460-090 or a risk management decision under WAC 173-460-100 to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, the applicant shall pay the advanced modeling review fee in the fee schedule.

c. New Source Performance Standards (NSPS) Review Fee

Applicants of any new air pollution source subject to WAC 173-400-115 (NSPS) and 40 CFR Parts 60 shall pay a NSPS review fee according to the fee schedule.

d. National Emission Standard for Hazardous Air Pollutants (NESHAP) Review Fee

Applicants of any new air pollution source subject to WAC 173-400-075 (NESHAP) and 40 CFR Parts 61 and 63 shall pay a NESHAP fee according to the fee schedule.

e. Best Available Control Technology (BACT) Review Fee

1) Generic BACT

Where no BACT review is required (e.g., the applicant demonstrates there is an established and/or recognized BACT standard for the source category type), a BACT review fee is not applicable.

2) Non-Generic BACT Review

A non-generic BACT review is one where a generic BACT standard is not applicable and a top-down BACT review is not required. Applicants of any new air pollution source subject to a non-generic BACT review shall pay a non-generic BACT review fee according to the fee schedule.

3) Top-Down BACT Review (as described in EPA's Draft New Source Review Workshop Manual from October 1990 and as summarized below)

A top-down BACT review is one that requires available control technologies be ranked in descending order of control effectiveness. The most stringent or "top" control technology is first examined. That control technology is established as BACT unless the applicant demonstrates, and the Agency concurs, that technical considerations, energy, environmental, or economic impacts justify a conclusion that the most stringent technology is not achievable in for the project being proposed. If the most stringent control technology is eliminated in this fashion, the next most stringent control technology is considered, and so on. Applicants of any new air pollution source subject to a top-down BACT review shall pay a top-down BACT review fee according to the fee schedule.

B. Payment of Fees

1. At the Time of Application

The base fee shall be paid at the time of application. Review of the application will not commence until the applicable base fee is received.

2. After Application

a. Payment of Fees for Complete Applications

The Agency will invoice the owner, operator, or applicant for all other applicable fees without regard to whether the request(s) associated with this section are approved or denied.

b. Payment of Fees for Incomplete Applications

If an owner, operator, or applicant notifies SRCAA in writing that an incomplete application will not be completed

or cancels the application (i.e., the application is neither approved or denied), applicable fees for review performed pursuant to A.2 and A.3 of this section shall be invoiced. If an application remains incomplete for more than 3 months, the owner, operator, or applicant shall be invoiced applicable fees for review performed pursuant to A.2 and A.3 of this section. If review of the application recommences, applicable review fees apply.

C. Incomplete Applications

Applications not accompanied by the base fee will be considered incomplete. In addition, if information requested by the Agency is not provided, the application will be considered incomplete and review of the application will be suspended. Review of the application will commence, or recommence when applicable, when all required fees and information requested by the Agency is received. An application will be cancelled if it remains incomplete for more than 18 months from initial receipt. For review of the cancelled application to resume, the applicant must pay all outstanding invoice fees, if applicable, and resubmit the applicable base fee.

D. Compliance Investigation Fee

Where a compliance investigation is conducted pursuant to Section 5.12 of this Regulation, the compliance investigation fee shall be assessed pursuant to the fee schedule. The fee shall be assessed for each emissions unit, or group of like-kind emissions units, being installed or modified. A group of emissions units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

E. Periodic Fee Review

The Board shall periodically review the fee schedule and determine if the total actual fee revenue collected and projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Agency shall account for program costs, including employee costs and overhead. If the Board determines that the total project fee revenue is either significantly excessive or deficient for this purpose, then the Board (~~shall~~) may amend the fee schedule to more accurately recover program costs. In general, fees will be greater for permits that are typically more complex or take more time to review and process.

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

AMENDATORY SECTION

SECTION 10.08 MISCELLANEOUS FEES

A. Miscellaneous Fees

1. Emission Reduction Credit

Review of emission reduction credits pursuant to WAC 173-400-131 shall require the applicant to pay an emission reduction credit fee pursuant to the fee schedule.

2. Variance Request

Processing a variance request pursuant to RCW 70.94.181 or Article III of this Regulation shall require the applicant to pay a fee pursuant to the fee schedule.

3. Alternate Opacity

Review of an alternate opacity limit pursuant to RCW 70.94.331 (2)(c) shall require the applicant to pay an alternate opacity fee pursuant to the fee schedule.

4. Other

Applicants of other services including those listed below shall pay a fee pursuant to the fee schedule.

a. Requests pursuant to the following sections of this Regulation: Sections 6.13.E.3.j; 6.13.F.4; 6.13.F.6; 6.13.F.9; 6.13.F.10; and 6.13.F.11.

b. Registration exemption requests.

c. Other.

B. Periodic Fee Review

The Board shall periodically review the fee schedule and determine if the total actual fee revenue collected and projected fee revenue to be collected pursuant to this Section is sufficient to fully recover program costs. Any proposed fee revisions shall include opportunity for public review and comment. Accordingly, the Agency shall account for program costs, including employee costs and overhead. If the Board determines that the total project fee revenue is either significantly excessive or deficient for this purpose, then the Board ~~(shall)~~ may amend the fee schedule to more accurately recover program costs. Fees in the fee schedule will be based on actual and projected employee costs and overhead. Fees will be set at an hourly rate.

AMENDATORY SECTION

SECTION 10.10 SOLID FUEL BURNING DEVICE EXEMPTIONS

A. An initial nonrefundable fee of \$25 shall be paid for review of any exemption request to use solid fuel combustion device during periods of impaired air quality. An annual nonrefundable renewal fee of \$10 will be required each year thereafter. These fees may be waived ~~((per Section 10.04 or))~~ for emergency situations.

B. Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.

AMENDATORY SECTION

SECTION 10.11 (Reserved) ~~((OXYGENATED GASOLINE (Repealed 9/1/05, Res. 05-19)))~~

AMENDATORY SECTION

SECTION 10.12 AGRICULTURAL BURNING FEES

A. For agricultural burning permits issued by the ~~((Authority))~~ Agency pursuant to Section 6.11 of this Regulation, a ~~((nonrefundable))~~ fee equal to the maximum fee provided for in Chapter 173-430 WAC shall be submitted with a complete agricultural burning permit application. ((shall be paid by the applicant according to the following:))

~~1. Portion for local administration: a fee of \$1.25 per acre; and~~

~~2. The state administration and research portions, pursuant to 70.94.650 RCW and WAC 173-430-040(3)(b):)~~

B. Refunds of fees collected by the ~~((Authority may))~~ Agency will be provided ~~((at the discretion of the Authority))~~ for ~~((portions of acreage, of equivalent, un))~~ acres or tons permitted but not burned, provided that the total ~~((adjusted))~~ nonrefundable fee is no less than ~~(((\$25))~~ the minimum fee specified in Chapter 173-430 WAC.

C. Acreage equivalency, if applicable, shall be in accordance with the determination of the agricultural burning practices and research task force pursuant to Chapter 173-430 WAC ~~((173-430-040(3)(d)))~~.

D. Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.

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

AMENDATORY SECTION

SECTION 10.13 OUTDOOR BURNING PERMIT FEES

For outdoor burning permit applications, submitted to the ~~((Authority))~~ Agency pursuant to Section 6.01 of this Regulation, a nonrefundable fee shall accompany the application. Fees shall be paid without regard to whether the associated request(s) are approved or denied. The applicant shall pay a fee at the time of application (except for hourly fees, which will result in a billing invoice being sent to the applicant from the Agency) pursuant to the fee schedule ~~((as indicated in the table below))~~ and shall submit a complete application pursuant to the advance application period indicated in the table below.

Type of Outdoor Burning	Advance Application Period	((Fee
Residential Land Clearing	10 working days	\$200
((Recreational)) <u>Social Event Fires</u> (>3' in diameter or >2' in height)	3 working days	\$50
Storm or Flood Debris	5 working days	\$200
Other Outdoor Burning as defined in Chapter 173-425 WAC	10 working days	(\$65/hr))

AMENDATORY SECTION

SECTION 10.14 PAVING WAIVER FEES

A. A minimum nonrefundable filing and review fee as specified in the fee schedule ~~((of \$50))~~ shall accompany all paving waiver requests submitted to the ~~((Authority))~~ Agency. After the first hour of filing and review, an additional hourly fee as specified in the fee schedule ~~((of \$50 per hour))~~ shall be paid by the applicant for each hour of time expended by the ~~((Authority))~~ Agency in carrying out the review.

B. Fees shall be paid without regard to whether the request(s) associated with this Section are approved or denied.

WSR 10-18-005
PROPOSED RULES
SECRETARY OF STATE
 [Filed August 18, 2010, 3:22 p.m.]

Chapter 434-112 WAC

CORPORATIONS (~~(DIVISION)~~) AND CHARITIES
DIVISION PROGRAM SERVICES, PROCEDURES
AND FEES

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-07-043.

Title of Rule and Other Identifying Information: Corporation and charities program services, procedures, and fees.

Hearing Location(s): Dolliver Building, Second Floor Conference Room, 801 Capitol Way South, Olympia, WA 98504, on October 5, 2010, at 2:00 p.m.

Date of Intended Adoption: October 6, 2010.

Submit Written Comments to: Pamela Floyd, P.O. Box 40234, Olympia, WA 98504-0234, e-mail Pam.Floyd@sos.wa.gov, fax (360) 586-4989, by October 4, 2010.

Assistance for Persons with Disabilities: Contact Sharon Baker by October 4, 2010, at Sharon.Baker@sos.wa.gov or call (360) 725-0312, TTY (800) 422-8683.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To combine two chapters of rules into one chapter, updating services, procedures, and fees as established in new state law in legislative session 2010, SHB 2576 and HB 2657.

Reasons Supporting Proposal: Current rules are out of date and in some cases, conflict with law or each other. New technology and a move towards "plain talk" are other reasons to combine chapters and update existing rules.

Statutory Authority for Adoption: RCW 11.110.070, 18.100.035, 19.77.015, [19.77.]030, [19.77.]050, [19.77.]060, 23.86.075, 23.90.050, 23B.01.200, [23B.01.]220, 24.03.007, [24.03.]302, [24.03.]405, [24.03.]410, 24.06.290, [24.06.]440, [24.06.]445, [24.06.]450, [24.06.]455, [24.06.]485, 25.10.006, [25.10.]171, [25.10.]605, [25.10.]610, [25.10.]916, [25.10.]921, 25.15.007, [25.15.]810, 43.07.120, [43.07.]128, [43.07.]130, 46.64.040.

Statute Being Implemented: Titles 23, 23B, 24, 25 RCW, chapter 26.60 RCW, RCW 43.07.120.

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

Name of Proponent: Division of corporations, office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting: Pamela Floyd, Director, 801 Capitol Way South, Olympia, WA 98504, (360) 725-0310; Implementation: Linda Shea, Deputy Director, 801 Capitol Way South, Olympia, WA 98504, (360) 725-0310; and Enforcement: Kyle Crews, AGO, 7141 Cleanwater Drive S.W., Tumwater, WA 98504-0121, (360) 664-2510.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Implementing legislative changes only.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are adopting by reference without material change, Washington state statutes and are not required to do a cost-benefit analysis per RCW 34.05.328 (5)(iii).

August 18, 2010

Steve Excell

Assistant Secretary of State

NEW SECTION

WAC 434-112-005 Purpose. These rules establish procedures and fee schedules for filings, for expedited services, and for access to public records in the corporations and charities division of the office of the secretary of state. These rules are adopted pursuant to Titles 23, 23B, 24, and 25 RCW and chapters 11.110, 19.09, 19.34, 19.77, 19.166, 26.60, 43.07, and 46.64 RCW.

AMENDATORY SECTION (Amending WSR 07-20-065, filed 9/28/07, effective 10/29/07)

WAC 434-112-010 Services provided by the corporations (~~(division)~~) and charities (~~(program)~~) division. (1) The (~~(corporations)~~) division includes the corporations program and the charities program.

(2) The corporations program provides the following services:

(a) Business filings under chapters 18.100, 23.78, 23.86, 23.90 RCW, and Titles 23B and 25 RCW;

(b) Nonprofit organization filings under Title 24 RCW;

(c) Trademark registration under chapter 19.77 RCW;

(d) Certification authority licensing under chapter 19.34 RCW, the Electronic Authentication Act;

(e) Registration of international student exchange programs under chapter 19.166 RCW;

(f) Registration under the Immigration Assistant Practices Act, chapter 19.154 RCW;

(g) Apostilles under RCW 42.44.180;

(h) Agent for service of process on motorists under RCW 46.64.040;

(i) Agent for service of process on defendants in actions for recovery of damages for motor vehicle theft, as authorized by RCW 9A.56.078;

(j) Agent for service of process for those entities and under those circumstances listed in (a), (b), and (c) of this subsection;

(k) Registration of state registered domestic partnerships under chapter 26.60 RCW and RCW 43.07.400.

(3) The charities program provides the following services:

(a) Registrations under the Charitable Solicitations Act, chapter 19.09 RCW including:

(i) Charitable organizations;

(ii) Commercial fund-raisers; and

(iii) Fund-raising contracts;

(b) Registration of charitable trusts under chapter 11.110 RCW;

(c) Publication of the trust directory; and

(d) Agent for service of process for those entities and under those circumstances listed in (a) and (b) of this subsection.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-020 ~~((Corporations division address, telephone number and))~~ **Office hours.** Office hours are from 8:00 a.m. to 5:00 p.m. daily, Monday through Friday, excluding legal holidays. Walk-in, counter services and emergency counter services are available for an expedited fee under WAC 434-112-080.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-025 Documents delivered after normal working hours. (1) Documents, including substitute service of process on the secretary of state, delivered after the normal working hours of 8:00 a.m. to 5:00 p.m., will be ~~((deemed to be))~~ treated as though received on the next working day.

(2) Filings submitted on-line or by fax will be ~~((deemed to be))~~ treated as though received as of the date and time the ~~((corporations division))~~ division's computer system or fax machine records the complete submission and credit card approval for the transaction.

(3) The secretary assumes no responsibility for any form of delivery other than that:

(a) Received personally by an employee of the office of the secretary of state; or

(b) Received by the ~~((corporations division))~~ division's computer system or fax machine as a result of an ~~((on-line))~~ electronic filing.

NEW SECTION

WAC 434-112-028 Mail-in service—Corporate name reservation. (1) All mailed-in documents are processed and filed in order of date of receipt unless expedited, incomplete, or incorrect. A specific filing date may be reserved up to thirty days in advance. The necessary documents, in appropriate form, with complete and correct information and fees, must be in the office by the specified date.

(2) Requests for name searches coupled with a name reservation are completed in order of date received. A name reservation may be made by completing the form provided by the division or in a letter clearly containing all the following information:

(a) The corporate name desired, with two alternate names;

(b) The name, address, and telephone number of the applicant;

(c) The signature of the applicant; and

(d) The application date.

An application on behalf of a client should also include the client's name and complete address.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-030 Certificates for ~~((business))~~ filings. Certificates issued by the secretary of state or the secretary's designee in furtherance of duties under Titles 18, 19,

23, 23B, 24 ~~((and)), 25 ((RCW shall)), 26, and chapter 42.44 RCW will:~~

(1) ~~((Bear))~~ Contain a rendition of the Washington state seal;

(2) ~~((Bear))~~ Contain a mechanical or electronic reproduction of the secretary's signature; and

(3) Be regarded as the secretary of state's official certification of the matters itemized in the certificate.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-040 Document standards for filings ~~((—Cover sheet requirement and document quality))~~.

(1) ~~((A completed contact information cover sheet shall be submitted with each filing with the corporations division or the charities program if:~~

~~((a) The filing party is not the registered agent and would like the completed filing returned to them directly;~~

~~((b) The filing party would like expedited service under WAC 434-112-080; or~~

~~((c) The filing party would like correspondence related to a charities program filing sent to an individual at an address other than the mailing address of record.~~

~~((2) The cover sheet will include contact telephone and address information related to the filing, and provide an opportunity to advise the corporations division whether the request is for expedited service and designate the address to which the corporations division is to return the completed request.~~

~~((3))~~ All corporations related filings ~~((received without a contact information cover sheet will be))~~ are returned to the registered agent for the entity when processing is complete unless the filing indicates otherwise.

~~((4))~~ (2) Correspondence pertaining to a charities program filing ~~((received without a contact information cover sheet will be))~~ is sent to the entity's mailing address of record when processing is complete unless the filing indicates otherwise.

~~((5))~~ (3) The corporations ~~((division including the))~~ and charities programs may reject and return documents ~~((and copies))~~ that are not legible or not ~~((capable of being))~~ able to be recorded as an image with adequate resolution and clarity, or are not complete.

~~((a) Paper and ink must be of weight and color capable of producing a legible image regardless of the system used by the corporations division for creating the image.~~

~~((b))~~ Documents completed in pencil will not be accepted for filing.

~~((c) All text must be written or printed in eight point type or larger.)~~

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-112-045 ~~((Requests for information or fees))~~ Rejection of documents. (1) The corporations ~~((division))~~ and ~~((the))~~ charities programs may ~~((pend action on))~~ reject documents ~~((submitted for filing that are unacceptable for filing by reason of incomplete information or insufficient~~

fees, pending provision of the required information and fees)) under WAC 434-112-040.

(2) Additional information or payment may be requested by telephone, fax, e-mail or letter.

(3) The corporations (~~(division)~~) and (~~(the)~~) charities programs may (~~(pending action)~~) hold documents for up to thirty days to await additional information or funds needed to complete the filing. This time may extend to forty-five days if the filing party is making good faith efforts to complete the filing.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-112-050 Duplicate originals not required—Filing procedure. (1) Persons submitting business filings under chapters 18.100, 19.77 or Titles 23, 23B, 24 and 25 RCW (~~(shall)~~) must submit one original copy of the document (~~(submitted)~~) for filing.

(2) Subsection (1) of this section does not apply to:

(a) Filings completed (~~(on-line)~~) electronically;

(b) Summons and complaints; and

(c) Specimens provided in support of a trademark filing.

(3) The corporations (~~(division)~~) and charities programs will retain a digital image of the record submitted for filing, and on completion of the filing will return to the filer a copy of the digital image (~~(bearing)~~) with a ((filing)) "Filed" endorsement.

(4) The corporations (~~(division)~~) and charities programs may return the completed filing via e-mail or other electronic means if the filer indicates that an electronic response is acceptable.

~~((5) The corporations division may reject and return documents and copies that are not legible or not capable of being recorded as a digital image with adequate resolution and clarity.))~~

NEW SECTION

WAC 434-112-055 Registered office address—Requirements. (1) A post office box address may be used in addition to a registered Washington geographic office address.

(2) The registered agent is required to notify the office of the secretary of state and the corporation of any changes in either the street address or the post office box address as soon as possible.

NEW SECTION

WAC 434-112-060 Initial and annual reports—Form of content. (1) Any corporation filing under Title 23B RCW, shall file its initial annual report electronically, or on the form provided by the secretary of state, or shall clearly provide the information arranged in the following manner:

(a) Section 1. Corporate name, registered agent name and physical office address currently on file with the corporations program, the unified business identification number, state of incorporation, and original date filed in Washington;

(b) Section 2. If there has been a change in registered agent or registered office address since the articles were filed,

include the effective date of the change and the new name or address with the agent's signature agreeing to accept the appointment;

(c) Section 3. Address of principal place of business in Washington or, if a foreign corporation, the principal office address as stated in original incorporation in foreign jurisdiction; for both domestic and foreign corporations, the corporation telephone number, e-mail address, and a brief statement of nature of business;

(d) Section 4. A list of names and addresses of all corporate officers and directors; and

(e) Section 5. Signature and title of either the chair or president of the board of directors or an officer listed within the report.

(2) All profit and nonprofit corporations shall file their annual reports electronically, or on the form prescribed by the secretary of state, or clearly and concisely sectioned in the following manner:

(a) Section 1. Corporate name and registered agent and office address currently on file with the corporations program, the unified business identification number, state of incorporation and original date filed in Washington;

(b) Section 2. If there has been a change in registered agent or registered office address include the effective date and the new agent's signature signifying acceptance of the appointment or the new address;

(c) Section 3. Statement of purpose, or, if a foreign profit or nonprofit corporation, a statement of activities conducted and an address of principal office;

(d) Section 4. A list of names and addresses of all corporate officers and directors; and

(e) Section 5. The signature of either the chair or president of the board of directors or an officer listed within the report.

All annual reports must be accompanied by the statutory fee under WAC 434-112-085.

Any entity formed under Titles 23, 23B, and 25 RCW must disclose any transfer in the controlling interest of the entity and any interest in real property on the annual report, under RCW 43.07.390.

NEW SECTION

WAC 434-112-062 Annual reports—Due date for all nonprofit corporations. Each nonprofit corporation shall file its annual report by the last day of the month of its original registration as a corporation. The division shall notify each nonprofit corporation of its annual renewal date in advance of the due date. Failure to receive an annual report notice is insufficient reason for failing to file the statutorily required annual report.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-112-065 On-line filing—Consent of registered agent. (1) When completing and submitting an on-line filing for any entity required by Washington law to appoint a registered agent the filing party shall affirm under oath that they have obtained and have in their possession the signed, written consent of the person appointed as registered agent.

(2) When the person submitting the filing is the person appointed as registered agent, they are not required to obtain separate written consent.

(3) Submitting a false affirmation is punishable as a gross misdemeanor under RCW 43.07.210.

(4) The corporation or other entity required to maintain a registered agent must:

(a) Retain the original of the registered agent's signed consent;

(b) Make the original of the registered agent's signed consent available for inspection on request; and

(c) Submit the original to the corporations ~~((division))~~ program or the office of the attorney general within ten business days upon demand.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-112-070 On-line filing—Application for certificate of authority—Certificate of good standing. (1) When a foreign corporation or foreign limited liability company submits an on-line application for certificate of authority under RCW 23B.15.030, 24.03.325, or an on-line registration under RCW 25.15.315, the filing party may meet the statutory requirement for submitting a certificate of good standing or a certificate of existence by submitting a digital image of a certificate of good standing ~~((or))~~, certificate of existence, or document of similar import meeting the requirements of the statute.

(2) The image must be in a format specified as acceptable on the on-line filing web site.

(3) The certificate of good standing must meet the requirements of chapters 23B.15, 24.03, or 25.15 RCW for certificates of authority submitted in support of an application for certificate of authority.

(4) The corporation or limited liability company must:

(a) Retain the original certificate of good standing;

(b) Make the original certificate of good standing available for inspection on request; and

(c) Submit the original to the corporations ~~((division))~~ program or the office of the attorney general within ten business days upon demand.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-075 On-line services. (1) The corporations and charities division ~~((web site is located at www.see-state-wa.gov/))~~ offers on-line services. The division's web site provides a variety of services for charities and corporations including on-line lookup, on-line filing and downloadable forms. ~~((Please see the web site for the most up to date list of services available.~~

(2) The following business entities may pay their annual license fees and submit their annual reports on-line, provided they meet the requirements of this subsection:

~~(a) Domestic or foreign profit corporations organized under Title 23B RCW, including professional service corporations under chapter 18.100 RCW; and Massachusetts trusts under chapter 23.90 RCW.~~

~~(b) Foreign and domestic limited liability companies registered or formed under chapter 25.15 RCW, including limited liability companies formed under RCW 25.15.045 to provide professional services.~~

~~(3))~~ (2) Entities filing annual reports on-line must have twenty-five or fewer board members, officers, shareholders, members or managers to report.

~~((4))~~ (3) On-line filings ~~((for foreign and domestic corporations, foreign and domestic limited liability companies, and registrations under the charities programs))~~:

(a) Will be processed as expedited filings ~~((under WAC 434-112-080))~~;

(b) Will be subject to ~~((the))~~ an expedited processing fee ~~((set forth in WAC 434-112-080))~~ of twenty dollars, with the exception of annual renewals or statements of change for registered agent information processed on-line; and

(c) Be treated as received when the ~~((corporations division))~~ division's system records receipt of the completed transaction including payment authorization.

~~((5))~~ (4) When submitting an on-line filing, the person completing the filing shall sign the application by: Typing their full name in the space provided on the web form; stating their capacity with the entity addressed in the filing; and following the directions for signing the web form.

(5) On-line processing fees are nonrefundable.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-080 In-person or expedited service—Special fees. ~~((1) The corporations division counter is open for corporations and charities program services to in-person requests from 8:00 a.m. to 5:00 p.m. each business day.~~

~~(a) Staff provides expedited, same-day processing of documents or requests submitted in person prior to 4:30 p.m. on that day. The corporations division is unable to guarantee same-day processing of any filing or request submitted after 4:30 p.m. on that day.~~

~~(b) Expedited requests submitted by fax, mail or on-line will be completed within two working days of submission, or as soon thereafter as possible.~~

~~(2) Expedited services under this section are available for the following transactions:~~

~~(a) Business filing transactions:~~

~~(i) Charter document review and filing;~~

~~(ii) Name reservation review and filing;~~

~~(iii) Document certification;~~

~~(iv) Document copying or status certificates;~~

~~(v) Status change filings;~~

~~(vi) Reinstatements; and~~

~~(vii) Trademark filings.~~

~~(b) Charities program filings:~~

~~(i) Document review and filing including initial registration and renewals of charities, commercial fund-raisers and charitable trusts;~~

~~(ii) Document copying and status verification letters;~~

~~(iii) Status change filings.~~

~~(e) Apostille requests submitted at the corporations division counter.~~

(3) The fee for expedited service is twenty dollars for single or multiple transactions within each new or existing corporation program file, or charities program file. In addition, the filing fee for each transaction will apply.

(4) Except for on-line filings, the filing party shall indicate that expedited processing is requested by:

(a) Submitting a completed contact information cover sheet as described by WAC 434-112-040 indicating that the document is submitted for expedited filing; or

(b) Placing the word "expedite" conspicuously on either the face of the document to be filed, or on any cover letter submitted with the document.

(5) All documents submitted for filing on-line and corporations documents submitted via facsimile transmission are treated as expedited processing requests. Registrations with the charities program may not be submitted by facsimile. Documents transmitted via facsimile will receive expedited processing within two working days of submission, or as soon thereafter as possible when the documents are received between 8:00 a.m. and 5:00 p.m. Pacific time each business day. The fee for facsimile filings is twenty dollars for single or multiple transactions within each new or existing corporation or trademark file. In addition, the filing fee for each transaction will apply.

(6) There is no expedited fee for the following transactions, unless they are submitted via facsimile transmission or on-line:

(a) Registered agent or address change;

(b) Initial reports;

(c) License renewal and required annual report;

(d) Amended annual reports;

(e) In-person inspection or review of corporation files or other public documents located in the corporations division office;

(f) Documents left at the counter for processing with mail-in documents received the same day; or

(g) A search for nonactive corporations less than twenty years old or trademark files less than six years old.

(7) If staff cannot complete the expedited service request before the end of the same day, or the second consecutive business day for facsimile filings, the transaction will be completed as soon as possible.

(8) Emergency services needed outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus regulatory or statutory fees due for the form of the filing. When the division receives an emergency request, staff notifies the customer of the service fee and any other reasonable conditions set by the director. The customer must agree to pay the fees or have received a fee waiver before emergency services are provided.

(9) Service may be limited under extraordinary circumstances.

(a) Over the counter service hours may be shortened under extraordinary circumstances.

(b) Separate over the counter service requests by one person may be limited to those relating to three corporations per day.

(c) Documents submitted by courier services or document handling companies may receive twenty-four hour service or as soon thereafter as possible.

(d) A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.

(10) A person submitting a filing or request may submit a written request asking the secretary to waive emergency or penalty fees.

(a) The request must include the special circumstances justifying the fee waiver.

(b) Under special circumstances the secretary may waive emergency or penalty fees.

(11) Fees for expedited or in-person processing will not be refunded. (1) In-person service is available at the division's counter which is open for all program service requests from 8:00 am to 5:00 p.m. each business day. The fee for in-person expedited service is fifty dollars plus any transaction fee.

(a) The division is unable to guarantee same day processing of any filing or request submitted in-person after 4:30 p.m. on that day.

(b) There is no in-person expedited service fee for documents dropped off in-person for processing with nonexpedited documents received that day.

(c) There is no in-person expedited service fee for photocopies requested in-person.

(2) Expedited service requests, including on-line services, will be completed within two working days of submission or as soon thereafter as possible, depending on volume received. Expedited service is available on:

(a) All paper documents submitted to our office by fax or mail for filing relating to any division program;

(b) Document copying from microfilmed records; and

(c) Certification and status certificates.

(3) The fee for expedited service is fifty dollars for single or multiple transactions on paper within each new or existing division program file. In addition, the filing fee for each transaction will apply. If an on-line filing is subsequently filed in person, an additional paper expedite fee is required.

(4) The filing party may indicate that expedited processing is requested by placing the word "expedite" in bold letters on either the envelope, the face of the document to be filed, or on any cover letter submitted with the document.

(5) Documents submitted via fax will receive expedited processing if accompanied by the expedite service fee. Otherwise, they will be processed with nonexpedited documents received the same day.

(6) Services may be limited under extraordinary circumstances.

(a) Over-the-counter service hours may be shortened under extraordinary circumstances.

(b) Separate over-the-counter requests by one person may be limited to those relating to three entities per transaction.

(7) Emergency services outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus transaction fees due on any filing. When the division receives a request for emergency services, staff will notify the customer of the service fee and any other reasonable conditions set by the director. The customer must agree to pay the fees or have received a fee waiver before emergency services are provided.

(8) A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.

(9) A customer may submit a written request asking the secretary to waive emergency or penalty fees, which must include the special circumstances justifying the fee waiver. The secretary will make the determination to waive fees or not.

(10) In-person expedited service fees are not refundable.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-085 Fees and penalties. ~~((1) For Washington registered profit domestic and foreign corporations, including profit cooperative associations, employee cooperative associations, limited liability companies, limited partnerships, Massachusetts trusts and limited liability partnerships, fees and penalties are as follows:~~

~~(a) Articles of incorporation, certificates of formation, certificate of limited partnership and other original filings, one hundred eighty dollars;~~

~~(b) Articles of amendment, restatement, correction, or revocation of dissolution, thirty dollars; articles of amendment for limited partnerships are twenty-five dollars;~~

~~(c) License renewal with required annual report filed after due date and before administrative dissolution, penalty fee of twenty-five dollars, plus the statutory fee of fifty dollars and the department of licensing handling fee of nine dollars; limited partnership and limited liability partnership annual report statutory fee is fifty dollars;~~

~~(d) Reinstatement, one hundred dollars plus all delinquent license or annual fees and a twenty-five percent penalty computed on the total amount;~~

~~(e) Articles of merger or exchange, twenty dollars for each listed company;~~

~~(f) Resignation of registered agent, twenty dollars;~~

~~(g) Resignation of officer or director, an initial report or amended annual report, and the appointment or change of registered agent or change of registered address, ten dollars;~~

~~(h) Registration, reservation, or transfer of name, thirty dollars;~~

~~(i) Articles of dissolution, certificate of withdrawal, dissolution by judicial decree, or revocation of certificate of authority by either failure to renew or judicial decree, no fee;~~

~~(j) Agent's consent to act as agent, agent's resignation if appointed without consent, or annual report when filed concurrently with annual license fee, no fee; and~~

~~(k) Other statement or report filed, ten dollars.~~

~~(2) For Washington registered domestic and foreign non-profit corporations, nonprofit miscellaneous and mutual corporations, building corporations, and other associations and corporations under Title 24 RCW, fees and penalties are as follows:~~

~~(a) Articles of incorporation and other original filings, thirty dollars;~~

~~(b) Articles of amendment, restatement, twenty dollars;~~

~~(c) Articles of dissolution or certificate of withdrawal, no fee;~~

~~(d) Revocation of dissolution, twenty dollars;~~

~~(e) Reinstatement following administrative dissolution, thirty dollars plus all delinquent annual fees and a five-dollar penalty;~~

~~(f) Articles of merger or exchange, twenty dollars for each listed corporation;~~

~~(g) Resignation of officer or director, an initial report or amended annual report, the appointment or change of registered agent, or change of registered address, ten dollars;~~

~~(h) Resignation of registered agent, twenty dollars;~~

~~(i) Registration, reservation, or transfer of reservation of name, twenty dollars;~~

~~(j) Certificate of election adopting provisions of chapter 24.03 RCW as described in RCW 24.03.017, thirty dollars; and~~

~~(k) Other statement or report filed, ten dollars.~~

~~(3) For registering trademarks for use within the state, the fees are as follows:~~

~~(a) For a five-year registration or renewal, fifty dollars for each class in which the trademark is registered;~~

~~(b) For recording the assignment of a trademark and its registration or application for registration, ten dollars;~~

~~(c) For a new certificate with the name of the new assignee, five dollars;~~

~~(d) For reservation of a trademark for one hundred eighty days, thirty dollars for each class in which the trademark is reserved;~~

~~(e) For amendment of a trademark to add new classes of goods or services, fifty dollars for each class added by the amendment;~~

~~(f) Cancellation of trademark, no fee; and~~

~~(g) Other statement or report filed, ten dollars.~~

~~(4) For registration of a declaration of state-registered domestic partnership, or registration of a notice of termination of state-registered domestic partnership, fifty dollars each.~~

~~(5) Fees paid under WAC 434-112-085 are not refundable. Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.) (1) For Washington registered profit domestic and foreign corporations, including employee cooperative associations, limited liability companies, limited partnerships, Massachusetts trusts, and limited liability partnerships, fees and penalties are:~~

(a) Articles of incorporation one hundred eighty dollars (includes heritage center fee of five dollars under RCW 43.07.128)

(b) Certificates of formation one hundred eighty dollars (includes heritage center fee of five dollars under RCW 43.07.128)

(c) Applications for registration one hundred eighty dollars (includes heritage center fee of five dollars under RCW 43.07.128)

<u>(d) Certificates of authority</u>	<u>one hundred eighty dollars (includes heritage center fee of five dollars under RCW 43.07.128)</u>	<u>(u) Initial report filed with formation</u>	<u>no fee</u>
<u>(e) Certificate of limited partnership</u>	<u>one hundred eighty dollars (includes heritage center fee of five dollars under RCW 43.07.128)</u>	<u>(v) Amended annual report or initial report filed after formation</u>	<u>ten dollars</u>
<u>(f) Other original filings</u>	<u>one hundred eighty dollars (includes heritage center fee of five dollars under RCW 43.07.128)</u>	<u>(w) Change of registered agent</u>	<u>no fee</u>
<u>(g) Articles of amendment</u>	<u>thirty dollars</u>	<u>(x) Change of registered office address</u>	<u>no fee</u>
<u>(h) Articles of restatement</u>	<u>thirty dollars</u>	<u>(y) Registration, reservation, or transfer of name</u>	<u>thirty dollars</u>
<u>(i) Articles of correction</u>	<u>thirty dollars</u>	<u>(z) Articles of dissolution or certificate of dissolution</u>	<u>no fee</u>
<u>(j) Revocation of dissolution or withdrawal</u>	<u>thirty dollars</u>	<u>(aa) Certificate of withdrawal</u>	<u>no fee</u>
<u>(k) Delinquent license renewal</u>	<u>ninety-four dollars, including twenty-five dollars penalty, sixty dollars statutory fee, and nine dollars department of licensing handling fee, when applicable</u>	<u>(bb) Certificate of cancellation</u>	<u>no fee</u>
<u>(l) Limited partnership annual report</u>	<u>sixty dollars</u>	<u>(cc) Agent's consent to act as agent</u>	<u>no fee</u>
<u>(m) Limited liability partnership annual report</u>	<u>sixty dollars</u>	<u>(dd) Agent's resignation if appointed without consent</u>	<u>no fee</u>
<u>(n) Limited liability limited partnership annual report</u>	<u>sixty dollars</u>	<u>(ee) Other statement or report</u>	<u>ten dollars</u>
<u>(o) Cooperative association annual report</u>	<u>ten dollars</u>	<u>(2) For Washington registered domestic and foreign non-profit corporations, cooperative associations, nonprofit miscellaneous and mutual corporations, building corporations, and other associations and corporations under Title 24 RCW, fees and penalties are:</u>	
<u>(p) Reinstatement from administrative dissolution</u>	<u>one hundred dollars plus all delinquent license or annual fees and a twenty-five percent penalty computed on the total amount</u>	<u>(a) Articles of incorporation</u>	<u>thirty dollars</u>
<u>(q) Requalification from administrative revocation</u>	<u>one hundred eighty dollars plus all delinquent fees</u>	<u>(b) Certificates of authority</u>	<u>thirty dollars</u>
<u>(r) Articles of merger or exchange</u>	<u>twenty dollars for each listed company</u>	<u>(c) Other original filings</u>	<u>thirty dollars</u>
<u>(s) Resignation of registered agent</u>	<u>twenty dollars</u>	<u>(d) Articles of amendment</u>	<u>twenty dollars</u>
<u>(t) Resignation of officer or director</u>	<u>ten dollars</u>	<u>(e) Restatement</u>	<u>twenty dollars</u>
		<u>(f) Annual report</u>	<u>ten dollars</u>
		<u>(g) Articles of dissolution, certificate of withdrawal</u>	<u>no fee</u>
		<u>(h) Reinstatement from administrative dissolution</u>	<u>thirty dollars plus all delinquent annual fees and five dollar penalty</u>
		<u>(i) Articles of merger or exchange</u>	<u>twenty dollars for each listed corporation</u>
		<u>(j) Resignation of officer or director</u>	<u>ten dollars</u>
		<u>(k) Amended annual report</u>	<u>ten dollars</u>
		<u>(l) Change of registered agent</u>	<u>no fee</u>
		<u>(m) Change of registered office address</u>	<u>no fee</u>
		<u>(n) Resignation of registered agent</u>	<u>twenty dollars</u>
		<u>(o) Registration, reservation, or transfer of reservation of name</u>	<u>twenty dollars</u>
		<u>(p) Certificate of election adopting provisions of chapter 24.03 RCW</u>	<u>thirty dollars</u>

(q) Other statement or report filed ten dollars

(3) For registering trademarks for use within the state, the fees are as follows:

(a) Five year registration fifty-five dollars (includes five dollars heritage center fee) for each class registered

(b) Five year renewal fifty dollars for each class registered

(c) Recording assignment ten dollars (includes registration)

(d) New certificate with name of assignee five dollars

(e) Reservation of trademark thirty dollars for each class reserved, for one hundred eighty days

(f) Amendment of trademark fifty dollars for each class

(g) Cancellation of trademark no fee

(h) Other statement or report filed ten dollars

(4) For filings related to state registered domestic partnership, the fees are:

(a) Registration fifty dollars

(b) Name change no fee

(c) Address change no fee

(d) Notice of termination by reason of death no fee

(5) Fees paid under WAC 434-112-085 are not refundable. Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-090 Miscellaneous fees. (1) Copy fees for corporate documents are:

(a) Each annual report, five dollars;

(b) Initial articles of incorporation, initial certificate of formation, other initial organizing document, ten dollars;

(c) Articles of incorporation, certificate of formation, other organizing documents including all subsequent amendments and restatements, twenty dollars;

(d) Copy of any filing related to a state registered domestic partnership, five dollars;

(e) Surcharge for files exceeding one hundred pages of copy, thirteen dollars for each fifty-page increment ~~((number of pages determined by weight of copies;))~~.

(2) For certificates of existence fees are as follows:

(a) With complete historical data, under ~~((embossed))~~ state seal, thirty dollars;

(b) Without complete historical data, under state seal, twenty dollars;

(c) Duplicate certificate under state seal, twenty dollars.

(3) For additional certificates of registration ~~((or termination))~~ of a state registered domestic partnership, five dollars. For an additional or replacement state registered domestic partnership wallet card, ten dollars.

(4) For verifying the signature of a notary or public official, for an apostille or certification authenticating a sworn document, the fee is fifteen dollars.

(5) For each certified copy of any document the fee is ~~((twenty))~~ ten dollars plus the document copy fee.

(6) For any service of process the fee is fifty dollars.

(7) Dishonored checks. If a person, corporation, or other submitting entity has attempted to pay any fee due to the secretary of state by means of a check, and the check is dishonored by the financial institution when presented, the secretary of state will impose a twenty-five-dollar penalty, payable to the secretary of state.

In the event a valid replacement check and dishonor charge is not received in the office of the secretary of state within the time prescribed by its accounting division, the transaction covered by the dishonored check will be canceled and all other late filing fees and penalties will be instituted.

NEW SECTION

WAC 434-112-095 Inactive profit domestic corporations—Proof. (1) Any corporation wishing to claim inactive status as described in RCW 23B.01.530 shall file a statement with the corporations program by the annual license renewal date. The statement shall include a declaration that the corporation has not received any revenue and has not been doing business during the preceding licensed year.

(2) A corporation claiming this statutory exemption to the full annual license fee shall file an annual report concurrently with the statement described in subsection (1) of this section and with the annual reduced license fee of ten dollars. Failure to file the reason for exemption statement, annual report, and fee shall result in administrative dissolution.

AMENDATORY SECTION (Amending WSR 09-06-036, filed 2/24/09, effective 3/27/09)

WAC 434-112-100 State registered domestic partnerships. (1) State registered domestic partnerships will be registered by the corporations program, in the corporations and charities division of the office of the secretary of state.

(2) Declarations of state registered domestic partnerships ~~((and notices of termination of state registered domestic partnerships))~~ may be submitted to the ~~((corporations))~~ division by mail, or in person. ~~((See WAC 434-112-020 for the corporations division hours of service.))~~

(3) The document standards in WAC 434-112-040 ~~((and))~~ apply to declarations of state registered domestic partnerships ~~((and to notices of termination of state registered domestic partnerships)).~~

(4) At the time of registration of a declaration of state registered domestic partnership ~~((or of filing of a notice of termination of state registered domestic partnership))~~ the cor-

porations (~~(division)~~) program will provide to each state registered domestic partner:

(a) One original certificate of registration (~~(or termination)~~). Further certificates or additional certificates requested after registration are available subject to the fees set forth in WAC 434-112-090.

(b) (~~(One)~~) Two wallet sized card documenting registration of the state registered domestic partnership.

(5) Registrations of state registered domestic partnerships are public records and all documents related to the registration are subject to public disclosure.

(6) Notice of termination of domestic partnership by reason of death may be submitted to the corporations program by e-mail, regular mail or in person and must include a copy of the death certificate. There is no fee.

WSR 10-18-010

PROPOSED RULES

HEALTH CARE AUTHORITY

[Order 10-04—Filed August 19, 2010, 9:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-105.

Title of Rule and Other Identifying Information: Chapter 182-26 WAC, Health insurance partnership (HIP) program.

Hearing Location(s): Health Care Authority, The Sue Crystal Center, 676 Woodland Square Loop S.E., Olympia, WA, on October 26, 2010, at 8:30 a.m.

Date of Intended Adoption: October 27, 2010.

Submit Written Comments to: Jennifer Willms, 676 Woodland Square Loop S.E., P.O. Box 42700, Olympia, WA 98504-2700, e-mail Jennifer.Willms@hca.wa.gov, fax (360) 923-2939, by October 26, 2010.

Assistance for Persons with Disabilities: Contact Nikki Johnson by October 19, 2010, TTY (888) 923-5622 or (360) 923-2805.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to amend chapter 182-26 WAC to:

- Increase the age of an eligible dependent for HIP insurance coverage; and
- Add an exception to the HIP employer premium payment deadline.

Statutory Authority for Adoption: RCW 41.05.160 and chapter 70.47A RCW.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Willms, 676 Woodland Square Loop, Lacey, WA, (360) 923-2939.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the filing of a small

business economic impact statement, and there will be no costs to small businesses.

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

August 19, 2010

Jason Siems

Rules Coordinator

AMENDATORY SECTION (Amending Order 08-02, filed 10/31/08, effective 12/1/08)

WAC 182-26-100 Definitions. "Administrator" means the administrator of the Washington state health care authority established under chapter 41.05 RCW.

"Appeal" means a formal written request to the HIP or its designee for resolution of problems or concerns that cannot be resolved informally. For the purposes of this chapter, "appeal" applies only to HIP decisions regarding subsidy determinations and employer eligibility for the HIP.

"Applicant" means:

- An (~~(individual)~~) eligible partnership participant who applies for a premium subsidy through the HIP on behalf of the (~~(individual)~~) eligible partnership participant and his or her dependents; or

- ~~((A))~~ An eligible partnership participant who applies or reapplies for premium subsidy through the HIP on behalf of the eligible partnership participant and his or her dependents during the annual subsidy application and renewal period as described in WAC 182-26-320.

"Application" means a form developed by the administrator that an applicant must sign, complete, and submit to the administrator to apply for a premium subsidy through the HIP. To be considered complete, the application must be accompanied by all supporting documents as required and determined by the administrator.

"Benchmark health benefit plan" or "benchmark plan" means a health benefit plan selected by the board and upon which the subsidy scale shall be determined and from which the administrator will calculate ~~((a))~~ an eligible partnership participant's premium subsidy.

"Board" or "HIP board" means the health insurance partnership board established under RCW 70.47A.100.

"Carrier" or "insurance carrier" means the same as defined in RCW 48.43.005.

"The department of social and health services" or "DSHS" means the department of social and health services as defined in RCW 43.20A.020.

"Dependent," for the purpose of determining subsidy eligibility, "dependent" means:

~~((1-A))~~ (a) An eligible partnership participant's (~~(lawful)~~) spouse, (~~(not legally separated, who shares a home with the partnership participant)~~) as defined under RCW 70.47A.901; or

~~((2))~~ (b) The ((unmarried)) child of the partnership participant or participant's dependent spouse, whether by birth, adoption, legal guardianship, or placement pending adoption, and not given up for adoption, who is:

~~((a))~~ (i) Younger than age ~~((twenty-five))~~ twenty-six;

or
~~((b))~~ (ii) Is of any age, is not able to take care of himself or herself due to disability, and is under legal guardianship of the partnership participant or the participant's dependent spouse.

~~((c))~~ (c) A dependent may be placed on only one HIP account at any given time.

"Designated health benefit plan" means a health benefit plan selected by the board as eligible for offer through the HIP.

"Disenroll" or "disenrollment" means the termination of a partnership participants' enrollment in the HIP program. Decisions regarding eligibility or enrollment status for insurance coverage will be made by the carrier.

"Eligible partnership participant" means a partnership participant who:

- Is a resident of the state of Washington;
- Has a family income that does not exceed two hundred percent of the federal poverty level, as determined annually by the federal Department of Health and Human Services; and
- Is a health plan eligible employee as defined in this section that is enrolled or is applying to enroll in the participating small employer's offered coverage.

"Employee" has the same meaning as defined in RCW 48.43.005.

"Employer agreement" means a form developed by the administrator that a small employer must complete, sign, and submit to the administrator to request enrollment in the HIP.

"Health insurance partnership" or "HIP" means the health insurance partnership established in RCW 70.47A.-030.

"Health plan eligible employee" means an individual who meets the participating small employer's enrollment criteria.

"HIP account" means an account maintained by the administrator for each partnership participant that includes but is not limited to:

- Demographic information for participants and dependents, if any;
- Subsidy status;
- Carrier and plan enrollment status; and
- Other information as required by the administrator.

"Income" or "family gross income" means total cash receipts, as defined in WAC 182-26-345, before taxes, for participants and all dependents.

"Individual health benefit plan selection." Reserved.

The "office of the insurance commissioner" or "OIC" means the insurance commissioner as defined in RCW 48.02.010.

"Open enrollment" means a designated time period during which partnership participants may enroll additional dependents or make other changes to their employer-sponsored health benefit plan coverage.

"Participating small employer" means a small employer who:

- Enters into a written agreement with the HIP to purchase a designated health benefit plan through the HIP;

- Attests at the date of the agreement that the employer does not currently offer coverage, including insurance purchased through the small group and association health plan markets, self-funded plans, and multiple employer welfare arrangements; and

- Attests at the date of the agreement that at least fifty percent of its employees are low-wage workers, as defined by the board.

"Partnership participant" means:

- A participating small employer as defined in this section;

- An employee of a participating small employer;
- A former employee of a participating small employer who chooses to continue coverage through the HIP following separation from employment, to the extent the employee is eligible for continuation of coverage under 29 U.S.C. Sec. 1161 et seq.; and

- A former employee of a participating small employer who chooses to continue coverage through HIP following separation from employment, to the extent determined by the board.

"Philanthropy" means a person, organization or other entity, approved by the administrator that is responsible for payment of all or part of the monthly premium obligation on behalf of a partnership participant.

"Premium" has the same meaning as described in RCW 48.43.005.

"Premium subsidy" or "subsidy" means payment to or reimbursement by the HIP on behalf of an eligible partnership participant toward the purchase of a designated health benefit plan.

"Qualifying change in family status" is defined in WAC 182-26-325.

"Section 125 plan" means a cafeteria plan compliant with section 125 of the federal Internal Revenue Code that enables employees to use pretax dollars to pay their share of their health benefit plan premium.

"Small employer" or "employer" as used in this chapter means an employer who meets the definition of "small employer" in RCW 48.43.005.

"Subsidy application and renewal period" means an annual period that lasts at least sixty days, during which:

- All partnership participants may apply for premium subsidies for themselves and their dependents; and
- All partnership participants receiving a subsidy are required to provide proof of their continuing eligibility for a premium subsidy.

The subsidy application and renewal period will begin ninety days before the employer-sponsored health benefit plan open enrollment period begins.

"Surcharge" means an amount, determined by the administrator, that may be added to a partnership participant's premium as provided for in WAC 182-26-500. The surcharge is not part of the premium and applies only to coverage purchased through the HIP.

"Washington state resident" means:

(a) A person who physically resides in and maintains a residence in the state of Washington.

(b) To be considered a Washington resident, individuals who are temporarily out of Washington state for any reason

may be required to demonstrate their intent to return to Washington state.

(c) "Residence" may include, but is not limited to:

(i) A home the person owns or is purchasing or renting;

(ii) A shelter or other physical location where the person stays; or

(iii) Another person's home.

NEW SECTION

WAC 182-26-230 Small employer one-time exception to monthly group premium payment deadline. The HIP program may grant small employers a one-time exception to the monthly group premium payment deadline as specified and agreed upon in the HIP employer agreement. Small employers are allowed to utilize the exception only once. To utilize the one-time exception, the small employer must satisfy all of the following three steps:

(1) The participating small employer must make a request to the HIP, in writing or over the phone, of its intent to utilize the one-time exception to the monthly group premium payment deadline.

(2) The participating small employer receives written acknowledgment from the HIP that its one-time payment deadline is approved; the exception must be received and approved by the last business day of the month preceding coverage.

(3) The participating small employer makes the full monthly group premium payment to the HIP by the 10th day of the month of coverage.

AMENDATORY SECTION (Amending Order 08-02, filed 10/31/08, effective 12/1/08)

WAC 182-26-305 Applying for a HIP premium subsidy. (1) To receive a HIP subsidy, an applicant must submit a complete application and all supporting documents as described in WAC 182-26-310 to the HIP.

(2) On a subsidy application, an applicant must list all eligible dependents up to age nineteen. The applicant must also provide other information and documents as required by the HIP.

(3) An applicant is not required to list dependents aged nineteen or over and under ~~((twenty-five))~~ twenty-six on the application, but if they are listed on the application, the HIP will include the dependents' income for purposes of subsidy eligibility and calculation.

(4) An applicant is not required to apply for a subsidy for all of his or her dependents. However, any dependent that does not apply for a subsidy at the same time that the other family members apply must wait to apply as a dependent until the next subsidy application and renewal period.

AMENDATORY SECTION (Amending Order 08-02, filed 10/31/08, effective 12/1/08)

WAC 182-26-340 How does the HIP determine the premium subsidy amount? (1) The HIP will apply a sliding scale subsidy schedule based on the partnership participant's family gross income and family size to determine the per-

centage of the employee's premium obligation the state will pay.

(2) The percentage in subsection (1) of this section will be applied to the health benefit plan employee premium share, including the amount due for dependents' coverage, remaining after deducting the employer contribution and a philanthropic contribution if applicable from the total premium amount for that participant.

(3) If a participating small employer chooses a health benefit plan with a higher premium than the benchmark plan, the subsidy will not exceed the amount applicable to the benchmark plan.

(4) In no case will the subsidy percentage exceed ninety percent of the ~~((benchmark))~~ plan ~~((employee))~~ employee's premium share after all contributions.

(5) Once enrolled in the HIP, the subsidy percentage will not change until the next subsidy application and renewal period, even if the total premium share changes because of a qualifying change in family status.

AMENDATORY SECTION (Amending Order 08-02, filed 10/31/08, effective 12/1/08)

WAC 182-26-350 What does the HIP count as income? Income includes all of the following, before any deductions (gross income):

Source	Received by the participant, spouse, child dependent aged nineteen or over and under ((twenty-five)) <u>twenty-six</u> , or adult dependent	Received by a dependent child under age nineteen
Wages, tips, and salaries	Yes	No
Taxable interest	Yes	Yes
Ordinary dividends	Yes	Yes
Taxable refunds, credits, or offsets of state and local income taxes	Yes	Yes
Alimony received	Yes	N/A
Business income or loss	Yes	Yes
Capital gain or loss	Yes	Yes
Other gains or losses	Yes	Yes
IRA distributions	Yes	Yes
Pensions and annuities	Yes	N/A

Source	Received by the participant, spouse, child dependent aged nineteen or over and under ((twenty-five)) <u>twenty-six</u> , or adult dependent	Received by a dependent child under age nineteen
Rental real estate, royalties, partnerships, S corporations	Yes	Yes
Farm income	Yes	Yes
Unemployment compensation	Yes	No
Social Security benefits	Yes	Yes
Other income	Yes	Yes

WSR 10-18-011
WITHDRAWAL OF PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed August 20, 2010, 8:53 a.m.]

Please withdraw proposed rule CR-102 WSR 10-17-058 filed August 12, 2010. The proposal as filed affects other sections and the agency has determined that all of these sections must be addressed at the same time. We will be submitting a continuance.

David Brenna
 Legislative Policy Coordinator

WSR 10-18-013
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed August 20, 2010, 8:53 a.m.]

The Washington department of fish and wildlife is withdrawing WAC 232-12-264 from the CR-102 filed as WSR 10-13-180 on June 23, 2010.

Lori Preuss
 Rules Coordinator

WSR 10-18-035
PROPOSED RULES
OLYMPIC COLLEGE

[Filed August 25, 2010, 11:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-023.

Title of Rule and Other Identifying Information: Olympic College distribution of printed material on campus (student conduct code).

Hearing Location(s): Olympic College Board Room, College Service Center, 5th Floor, 1600 Chester Avenue, Bremerton, WA 98337, on October 5, 2010, at 12:00 noon.

Date of Intended Adoption: October 6, 2010.

Submit Written Comments to: Thomas Oliver, Olympic College, CSC 210, 1600 Chester Avenue, Bremerton, WA 98337, e-mail toliver@olympic.edu, fax (360) 475-7505, by October 4, 2010.

Assistance for Persons with Disabilities: Contact Access Services by September 21, 2010, TTY (360) 475-7543 or (360) 475-7540.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Eliminate the requirement for the vice-president of student services to approve distribution of printed materials by persons not members of the college community.

Reasons Supporting Proposal: The college's new first amendment activities policy conflicts with this section of the student conduct code. The new policy and its attendant procedures will govern this activity.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: Chapter 28B.50 RCW.

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

Name of Proponent: Linda Yerger, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kim McNamara, HSS 2, 1600 Chester Avenue, Bremerton, WA 98337, (360) 475-7535.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will be no impact on any entity other than Olympic College.

A cost-benefit analysis is not required under RCW 34.05.328. There is no significant economic impact.

August 25, 2010
 Thomas Oliver
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-10-052, filed 4/29/05, effective 5/30/05)

WAC 132C-120-040 Distribution of printed material on campus. Publications, handbills, leaflets, statements, and similar materials except those which are commercial, obscene, or unlawful in character may be distributed without review or approval by any enrolled student or recognized group of students enrolled at Olympic College. It is to be understood that such materials do not necessarily represent the views of the college or the board of trustees. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs.

~~((Distribution of any printed materials by persons not members of the college community shall be prohibited unless approved in advance by the vice-president of student services or designee.))~~

WSR 10-18-043
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed August 25, 2010, 5:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-06-031.

Title of Rule and Other Identifying Information: Public safety employees' retirement system rules related to Internal Revenue Code requirements: WAC 415-106-050 How does the department comply with Internal Revenue Code distribution rules?, 415-106-051 (new) How does the department comply with Internal Revenue Code rollover rules?, 415-106-052 (new) How does the department comply with Internal Revenue Code compensation limit rules?, 415-106-053 (new) How does the department comply with Internal Revenue Code vesting rules?, 415-106-054 (new) How does the department comply with Internal Revenue Code definitely determinable benefit rules?, 415-106-055 (new) How does the department comply with Internal Revenue Code USERRA rules?, 415-106-060 What are the IRS limitations on maximum benefits and maximum contributions?, 415-106-070, Assets for exclusive benefit of members and beneficiaries, and 415-106-600 What are my retirement benefit options?

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard, Conference Room 115, Tumwater, WA, on October 8, 2010, at 1:30 p.m.

Date of Intended Adoption: October 11, 2010.

Submit Written Comments to: Ken Goolsby, Rules Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail rules@drs.wa.gov, fax (360) 753-5397, by 5:00 p.m. on October 8, 2010.

Assistance for Persons with Disabilities: Contact Ken Goolsby, rules coordinator, by September 30, 2010, TDD (360) 664-7291, TTY (360) 586-5450, phone (360) 664-7291.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update, rewrite, and create rules as necessary to ensure compliance with Internal Revenue Code compliance.

Statutory Authority for Adoption: RCW 41.50.050(5).

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

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Goolsby, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7291; Implementation and Enforcement: Cathy

Cale, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7305.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules have no effect on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not one of the named departments in RCW 34.05.328.

August 25, 2010

Ken Goolsby

Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-02-046, filed 12/27/07, effective 1/27/08)

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

~~(2))) All benefits paid from the ((PSERS)) retirement plan shall be distributed in accordance with a reasonable and good faith interpretation of the requirements of ((IRC)) section 401 (a)(9) ~~((and the regulations under that section)) of the Internal Revenue Code, as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code.~~ In order to meet these requirements, the retirement plan shall be administered in accordance with the following provisions:~~

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

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

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

~~((e)))~~ (c) If a member dies before the required distribution of the member's benefits has begun, ~~((distribution of))~~ the member's entire interest must be ~~((distributed in accordance to IRC section 401 (a)(9) and the regulations implementing that section. Distributions must occur))~~ either:

(i) Distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary ((and must begin)), with the distributions beginning no later than December 31 of the calendar year ~~((immediately))~~ following the calendar year ~~((in which the member died;~~

~~((e)))~~ of the member's death; or

(ii) Distributed within five years of the member's death.

(d) The amount of ~~((benefits payable))~~ an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401 (a)(9)(G) of the ((Federal)) Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401 (a)(9)-6, Q&A 2; and

~~((e)))~~ (e) If a member dies after the distribution of the member's benefits has begun, the remaining portion of the member's interest will be distributed at least as rapidly as

under the method of distribution being used for the member as of the date of the member's death. ((Death benefits must be distributed in accordance with IRC section 409 (a)(9) and the regulations implementing that section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To the extent provided in federal regulations, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.) (2) The retirement system pursuant to a valid dissolution order as defined in RCW 41.50.500 may establish separate benefits for a member and nonmember.

(3) The death and disability benefits provided by the plan are limited by the incidental benefit rule set forth in section 401 (a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1 (b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent of the cost for all of the members' benefits received from the plan.

NEW SECTION

WAC 415-106-051 How does the department comply with Internal Revenue Code rollover rules? (1) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee

specifies, pursuant to section 401 (a)(31) of the Federal Internal Revenue Code.

(2) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the distributee with the following exceptions:

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

(b) Any distribution to the extent such distribution is required under section 401 (a)(9) of the Internal Revenue Code;

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

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

Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408 (a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in section 401(a) of the Internal Revenue Code, or on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the Internal Revenue Code or to an annuity contract described in section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code.

(3) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the Internal Revenue Code;

(b) An individual retirement annuity described in section 408(b) of the Internal Revenue Code;

(c) An annuity plan described in section 403(a) of the Internal Revenue Code;

(d) A qualified trust described in section 401(a) of the Internal Revenue Code;

(e) Effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code;

(f) Effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into such 457(b) plan from this plan; or

(g) Effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code.

(4) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401 (a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(5) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

NEW SECTION

WAC 415-106-052 How does the department comply with Internal Revenue Code compensation limit rules? (1) As used in this section, the term "eligible member" means a person who first became a member of the plan prior to the plan year beginning after December 31, 1995. Pursuant to section 13212 (d)(3)(A) of OBRA '93, and the regulations issued under that section, eligible members are not subject to the limits of section 401 (a)(17) of the Internal Revenue Code, and the maximum compensation used in computing employee and employer contributions to or benefits due from the plan for eligible members shall be the maximum amount allowed by the plan to be so used on July 1, 1993. The limits referenced in subsections (2) and (3) of this section apply only to years beginning after December 31, 1995, and only to individuals who first became plan members in plan years beginning on and after July 1, 1996.

(2) Effective with respect to plan years beginning on and after July 1, 1996, and before July 1, 2002, the annual compensation of a plan member (who is not an eligible member) which exceeds one hundred fifty thousand dollars (as adjusted for cost-of-living increases under section 401 (a)(17)(B) of the Internal Revenue Code) shall be ignored for purposes of computing employee and employer contributions to or benefits due from the plan. Effective only for the 1996 plan year, in determining the compensation of an employee eligible for consideration under this provision, the rules of section 414 (g)(6) of the Internal Revenue Code shall apply, except that in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the employee who have not attained age nineteen before the close of the year.

(3) Effective with respect to plan years beginning on and after July 1, 2002, the annual compensation of a plan member (who is not an eligible member) which exceeds two hundred thousand dollars (as adjusted for cost-of-living increases in accordance with section 401 (a)(17)(B) of the Internal Revenue Code) may not be used in determining benefits or contributions due for any plan year. Annual compensation means compensation during the plan year or such other consecutive twelve-month period over which compensation is otherwise determined under the plan (the determination period). The

cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than twelve months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is twelve. If the compensation for any prior determination period is used in determining a plan member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

NEW SECTION

WAC 415-106-053 How does the department comply with Internal Revenue Code vesting rules? (1) In addition to protections provided by state law, a plan member shall be one hundred percent vested in all plan benefits upon attainment of the normal retirement age and service requirements.

(2) A plan member shall be one hundred percent vested in his or her accumulated contributions at all times.

(3) The plan may only be terminated by action of the legislature and employer contributions must be paid in accordance with state law. In the event the legislature took action to terminate a plan or discontinue employer contributions to the plan, any applicable state law and constitutional protections would apply to accrued benefits.

NEW SECTION

WAC 415-106-054 How does the department comply with Internal Revenue Code definitely determinable benefit rules? (1) In conformity with section 401 (a)(8) of the Internal Revenue Code, any forfeitures of benefits by members or former members of the plan will not be used to pay benefit increases. However, such forfeitures shall be used to reduce employer contributions.

(2) In conformity with section 401 (a)(25) of the Internal Revenue Code, actuarial equivalence for purposes of calculating benefit options is determined using the following assumptions and without employer discretion:

(a) Interest rate: Five percent.

(b) GAR 94, the mortality table specified in Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62.

NEW SECTION

WAC 415-106-055 How does the department comply with Internal Revenue Code USERRA rules? Effective December 12, 1994, notwithstanding any other provisions of state law, contributions, benefits and service credit with respect to qualified military service are governed by section 414(u) of the Internal Revenue Code and the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, including amendments from the HEART Act of 2008.

AMENDATORY SECTION (Amending WSR 08-02-046, filed 12/27/07, effective 1/27/08)

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

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

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

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

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

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

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

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

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

ignored prior to age sixty-two and must be ignored after the Federal Social Security Retirement Age.)

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

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

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

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

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

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

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

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

(5) The definition of compensation, earnable compensation or other similar term when used for purposes of determining compliance with IRC section 415 includes the amount of any elective deferral, as defined in IRC section 402 (g)(3), or any contribution which is made or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC sections 125, 132 (f)(4), or 457, but excludes member contributions picked under IRC section 414 (h)(2).

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

Definitions. As used in this section:

(a) "IRC section 415(b) limit" refers to the limitation on benefits established by IRC section 415(b);

(b) "IRC section 415(c) limit" refers to the limitation on annual additions established by IRC section 415(c); and

(c) Limitation year is the calendar year.

(3) Participation in other qualified plans: Aggregation of limits.

(a) The IRC section 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in IRC section 414(j) maintained by the member's employer shall apply as if the total

benefits payable under all such defined benefit plans in which the member has been a member were payable from one plan.

(b) The IRC section 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in IRC section 414(i) maintained by the member's employer shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one plan.

(4) Basic IRC section 415(b) limitation. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in IRC section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415 (b)(1)(A), subject to the applicable adjustments in IRC section 415(b) and subject to any additional limits that may be specified in this section. In no event shall a member's annual benefit payable in any limitation year from this plan be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to IRC section 415(d) and the regulations thereunder.

(5) Annual benefit definition. For purposes of IRC section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to the after-tax employee contributions (except pursuant to IRC section 415(n)) and to all rollover contributions (as defined in IRC section 415 (b)(2)(A)). The "benefit attributable" shall be determined in accordance with treasury regulations.

(6) Adjustments to basic IRC section 415(b) limitation for form of benefit. If the benefit under this plan is other than a straight life annuity with no ancillary benefit, then the benefit shall be adjusted so that it is the equivalent of the straight life annuity, using factors prescribed in treasury regulations.

If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the IRC section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation section 1.415 (b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefits as follows:

(a) For a benefit paid in a form to which IRC section 417 (e)(3) does not apply (a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced IRC section 415(b) limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(i) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or

(ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five percent interest assumption (or the applicable statutory interest assumption) and the

applicable mortality tables described in Treasury Regulation section 1.417 (e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62).

(b) For a benefit paid in a form to which IRC section 417 (e)(3) applies (a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced IRC section 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):

(i) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(ii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one-half percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation section 1.417 (e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(iii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417 (e)-1(d)(3) (the thirty-year treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation section 1.417 (e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05.

(7) Benefits not taken into account for IRC section 415(b) limit. For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(a) Any ancillary benefit which is not directly related to retirement income benefits;

(b) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity; and

(c) Any other benefit not required under IRC section 415(b)(2) and treasury regulations thereunder to be taken into account for purposes of the limitation of IRC section 415 (b)(1).

(8) Other adjustments in IRC section 415(b) limitation.

(a) In the event the member's retirement benefits become payable before age sixty-two, the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of IRC section 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty

thousand dollar (as adjusted) annual benefit beginning at age sixty-two.

(b) In the event the member's benefit is based on at least fifteen years of service as a full-time employee of any police or fire department or on fifteen years of military service, the adjustments provided for in (a) of this subsection shall not apply.

(c) The reductions provided for in (a) of this subsection shall not be applicable to preretirement disability benefits or preretirement death benefits.

(9) Less than ten years of service adjustment for IRC section 415(b) limitation. The maximum retirement benefits payable to any member who has completed less than ten years of service shall be the amount determined under subsection (1) of this section multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten. The reduction provided by this subsection cannot reduce the maximum benefit below ten percent. The reduction provided by this subsection shall not be applicable to preretirement disability benefits or preretirement death benefits.

(10) Effect of cost-of-living adjustment (COLA) without a lump sum component on IRC section 415(b) testing. Effective on and after January 1, 2003, for purposes of applying the IRC section 415(b) limit to a member with no lump sum benefit, the following will apply:

(a) A member's applicable IRC section 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic COLAs;

(b) To the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for COLA increases until such time as the benefit plus the accumulated increases are less than the IRC section 415(b) limit; and

(c) Thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic COLA increases, shall be tested under the then applicable IRC section 415(b) limit including any adjustment to the IRC section 415 (b)(1)(A) dollar limit under IRC section 415(d), and the treasury regulations thereunder.

(11) Effect of COLA with a lump sum component on IRC section 415(b) testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration COLA increases as required by IRC section 415(b) and applicable treasury regulations.

(12) IRC section 415(c) limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of forty thousand dollars (as adjusted pursuant to IRC section 415(d)) or one hundred percent of the member's compensation.

(a) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

(b) For purposes of applying the IRC section 415(c) limits only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under IRC section 414(h) shall not be treated as compensation.

(c) Unless another definition of compensation that is permitted by Treasury Regulation section 1.415 (c)-2, or successor regulation, is specified by the plan, compensation will be defined as wages within the meaning of IRC section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC sections 6041(d), 6051 (a)(3), and 6052 and will be determined without regard to any rules under IRC section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC section 3401 (a)(2)).

(i) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC sections 125(a), 402 (e)(3), 402 (h)(1)(B), 402(k), or 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of IRC section 132 (f)(4).

(ii) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of two and one-half months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

(A) The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

(B) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

(iii) Back pay, within the meaning of Treasury Regulation section 1.415 (c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(13) Service purchases under IRC section 415(n).
Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of IRC section 415(n) will be treated as met only if:

(a) The requirements of IRC section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC section 415(b); or

(b) The requirements of IRC section 415(c) are met, determined by treating all such contributions as annual additions for purposes of IRC section 415(c).

(c) For purposes of applying this subsection, the plan will not fail to meet the reduced limit under IRC section 415 (b)(2)(C) solely by reason of this subsection and will not fail to meet the percentage limitation under IRC section 415 (c)(1)(B) solely by reason of this subsection.

(d) For purposes of this subsection the term "permissive service credit" means service credit:

(i) Recognized by the plan for purposes of calculating a member's benefit under the plan;

(ii) Which such member has not received under the plan; and

(iii) Which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding (d)(ii) of this subsection, may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

(e) The plan will fail to meet the requirements of this section if:

(i) More than five years of nonqualified service credit are taken into account for purposes of this subsection; or

(ii) Any nonqualified service credit is taken into account under this subsection before the member has at least five years of participation under the plan.

(f) For purposes of (e) of this subsection, effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:

(i) Service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in IRC section 415 (k)(3));

(ii) Service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (i)) of an education organization described in IRC section 170 (b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

(iii) Service as an employee of an association of employees who are described in subparagraph (i); or

(iv) Military service (other than qualified military service under section 414(u)) recognized by the plan.

(g) In the case of service described in (f)(i), (ii), or (iii) of this subsection, such service will be nonqualified service if recognition of such service would cause a member to receive

a retirement benefit for the same service under more than one plan.

(h) In the case of a trustee-to-trustee transfer after December 31, 2001, to which IRC section 403 (b)(13)(A) or 457 (e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):

(i) The limitations of (e) of this subsection will not apply in determining whether the transfer is for the purchase of permissive service credit; and

(ii) The distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.

(i) For an eligible member, the limitation of IRC section 415 (c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the plan before January 1, 1998.

(14) Modification of contributions for IRC sections 415(c) and 415(n) purposes. Notwithstanding any other provision of law to the contrary, the department may modify a request by a member to make a contribution to the plan if the amount of the contribution would exceed the limits provided in IRC section 415 by using the following methods:

(a) If the law requires a lump sum payment for the purchase of service credit, the department may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under IRC sections 415(c) or 415(n).

(b) If payment pursuant to (a) of this subsection will not avoid a contribution in excess of the limits imposed by IRC sections 415(c) or 415(n), the department may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

(15) Repayments of cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the state or a local government within the state shall not be taken into account for purposes of IRC section 415, in accordance with applicable treasury regulations.

(16) Reduction of benefits priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's defined contribution component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided; however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and

the plan administrator of all other plans covering such member.

AMENDATORY SECTION (Amending WSR 08-02-046, filed 12/27/07, effective 1/27/08)

WAC 415-106-070 (~~Assets for exclusive benefit of members and beneficiaries.~~) **How does the department comply with the Internal Revenue Code exclusive benefit rules?** No assets of the (~~public safety employees'~~) retirement system may be used for or diverted to a purpose other than the exclusive benefit of the members and their beneficiaries at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries.

AMENDATORY SECTION (Amending WSR 08-02-046, filed 12/27/07, effective 1/27/08)

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

(1) **Which option will pay my beneficiary a monthly (~~allowance~~) benefit after my death?** Options ~~two, three, and four~~ described in subsection (~~(2)~~) (3)(b) through (d) of this section, include a survivor feature. The person you name at the time of retirement to receive a monthly (~~allowance~~) benefit after your death is referred to as your "survivor beneficiary." Upon your death your survivor beneficiary will be entitled to receive a monthly (~~allowance~~) benefit for the duration of his or her life. (~~Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature. The factors used to determine the amount of the reduction are in WAC 415-02-380.~~)

(2) **How is my monthly benefit affected if I choose an option with a survivor feature?** If you choose Option ~~two, three, or four~~, your monthly benefit will be actuarially reduced from the amount you would have received under Option one. The reduction factors are found in WAC 415-02-380. Your reduction factor will be determined based on the age difference between you and your survivor beneficiary.

(3) **What are my benefit options?**

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

(b) **Option two: Joint and (~~whole allowance~~) 100 percent survivorship.** The department will pay you (~~(a)~~) an actuarially reduced monthly retirement (~~allowance~~) benefit throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly (~~allowance~~) benefit equal to the (~~gross monthly retirement allowance you were receiving~~) amount of your benefit as reduced by factors in WAC 415-02-380.

(c) **Option three: Joint and (~~one-half allowance~~) 50 percent survivorship.** The department will pay you (~~(a)~~) an actuarially reduced monthly retirement (~~allowance~~) benefit throughout your lifetime. After your death, the department

will pay your survivor beneficiary a monthly ~~((allowance))~~ benefit equal to one-half (50%) of the ~~((gross monthly retirement allowance you were receiving))~~ amount of your benefit as reduced by the factors in WAC 415-02-380.

(d) Option four: Joint and ~~((two-thirds allowance))~~ 66.67 percent survivorship. The department will pay you ~~((a))~~ an actuarially reduced monthly retirement ~~((allowance))~~ benefit throughout your lifetime. After your death, the department will pay your survivor beneficiary a monthly ~~((allowance))~~ benefit equal to two-thirds ~~((66.667%))~~ (66.67%) of the ~~((gross monthly retirement allowance you were receiving))~~ amount of your benefit as reduced by the factors in WAC 415-02-380.

If you choose Options two, three, or four, and your benefit is limited by IRC § 415(b), your survivor's benefit will be calculated based on the amount of your actuarially reduced benefit, prior to the application of IRC § 415(b). However, in these circumstances, the monthly amount payable to your survivor beneficiary may not exceed your actual monthly benefit.

~~((3))~~ **(4) Do I need my spouse's consent on the option I choose?** If you are married, you must provide your spouse's notarized signature indicating consent to the retirement option you select. If you do not provide spousal consent, the department will pay you a monthly retirement ~~((allowance))~~ benefit based on Option three (joint and ~~((one-half allowance))~~ 50 percent survivorship) and record your spouse as the survivor beneficiary as required by RCW 41.37.170(2). If your survivor beneficiary has been designated by a dissolution order according to subsection ~~((4))~~ (5) of this section, which was filed with the department at least thirty days before your retirement date, spousal consent is not required.

~~((4))~~ **(5) Can a dissolution order require that a former spouse be designated as a survivor beneficiary?** Yes. A dissolution order may require that a former spouse be designated as a survivor beneficiary. The department is required to pay survivor benefits to a former spouse pursuant to a dissolution order that complies with RCW 41.50.790.

~~((5))~~ **(6) What happens if I choose a benefit option with a survivor feature and my survivor beneficiary dies before I do?** Your monthly retirement ~~((allowance))~~ benefit will increase, provided you submit proof of your survivor beneficiary's death to the department. The increase will ~~((accrue from))~~ begin accruing the first day of the month following the death. Your increased ~~((monthly allowance))~~ benefit will be:

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

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

Example: John retires ~~((from PSERS))~~ in 2006. John chooses a benefit option with a survivor feature and names Beatrice, his daughter, as his survivor beneficiary. As a result, John's monthly ~~((allowance))~~ benefit is reduced from \$2,000 ~~((standard allowance))~~ (single life option) to \$1,750. Beatrice dies in 2011. John's monthly ~~((allow-~~

~~ance))~~ benefit will increase to \$2,191.05, which equals the amount he would have received had he chosen the ~~((standard allowance))~~ single life option, plus the COLAs he has received (based on his prior monthly ~~((allowance))~~ benefit).

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

* In the future, John's COLA will be based on his increased monthly benefit.

~~((6))~~ **(7) May I change my benefit option after retirement?** Your choice of a benefit option is irrevocable with the following three exceptions:

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

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

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

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

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

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

~~((v) You exercise this option one time only)).~~

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

~~((7))~~ **(8) Who will receive the balance of my accumulated contributions, if any, after my death?** The department will pay remaining accumulated contributions per the last properly completed form on file with the department prior to your death. See WAC 415-106-900 for additional information.

(a) If you do not have a survivor beneficiary at the time of your death, and you die before the total of the retirement

((allowance)) benefit paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

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

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

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

(b) If you have a survivor beneficiary at the time of your death, and your survivor beneficiary dies before the total of the retirement ((allowance)) benefit paid equals the amount of your accumulated contributions at the time of retirement, the balance will be paid:

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

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

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

(9) For more information, see RCW 41.37.170, 41.37.-230, and 41.37.250.

WSR 10-18-047

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 10-08—Filed August 26, 2010, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-11-098.

Title of Rule and Other Identifying Information: This rule making proposes to adopt a mandatory greenhouse gas (GHG) reporting rule for persons operating:

1. A single facility, source, or site that emits at least 10,000 metric tons of GHGs annually in the state; or

2. A supplier of liquid motor vehicle fuel, special fuel, or aircraft fuel that supplies products equivalent to at least 10,000 metric tons of carbon dioxide annually in the state.

This rule making will establish new chapter 173-441 WAC, Reporting of emissions of greenhouse gases.

Hearing Location(s): Department of Ecology, 4601 North Monroe Street, Spokane, WA 99205, on October 6, 2010, at 6 p.m.; and at the Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, on October 7, 2010, at 6 p.m.

Date of Intended Adoption: December 1, 2010.

Submit Written Comments to: Neil Caudill, P.O. Box 47600, Olympia, WA 98504-7600, e-mail neil.caudill@ecy.wa.gov, fax (360) 407-7534, by October 14, 2010.

Assistance for Persons with Disabilities: Contact Tami Dahlgren at (360) 407-6830, by September 28, 2010. Persons with hearing loss, call 711 for Washington relay service. Persons with a speech disability, call 877-833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will adopt, as directed in chapter 70.94 RCW, a mandatory GHG reporting rule. The proposal will establish a new chapter, chapter 173-441 WAC.

Reasons Supporting Proposal: The state of Washington has taken several steps to begin responding to climate change. E2SHB 2815, was passed by the 2008 legislature as part of the governor's climate change framework and is primarily codified in chapters 70.235 and 70.94 RCW. E2SHB 2815 requires the state to meet goals for the statewide reduction of emissions of GHGs within Washington over the next several decades and includes additional actions to reduce emissions of GHGs and build a clean energy economy. The legislature passed SSB 6373 in 2010 to amend E2SHB 2815 to emphasize consistency with the Environmental Protection Agency's (EPA) GHG reporting program. One element of SSB 6373 is a requirement for persons operating large stationary sources of GHGs or supplying certain types of fuels to begin reporting emissions. The statute directs ecology to adopt rules to develop and implement a reporting system for those entities required to report. The inventory of GHG emissions established by this reporting system will support future policy initiatives to meet the emissions reductions established in RCW 70.235.020.

Statutory Authority for Adoption: Chapter 146, Laws of 2010 (SSB 6373), Greenhouse gas emissions, chapters 70.235 and 70.94 RCW.

Statute Being Implemented: Chapters 70.94 and 70.235 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SSB 6373 directs ecology to adopt rules that establish a mandatory GHG reporting program that is consistent with EPA's mandatory GHG reporting program. EPA's program is still in development. Ecology's proposed rule incorporates by reference sections of EPA's final reporting rules as well as reporting rules currently proposed by EPA. EPA expects to finalize several of its proposed rules before the end of the year. To maintain consistency and reduce costs for reporters, ecology intends to update chapter 173-441 WAC to incorporate changes to the proposed EPA reporting protocols included in chapter 173-441 WAC if they are finalized by the date of adoption of chapter 173-441 WAC. This incorporation will not add or remove source categories from the rule.

Name of Proponent: Department of ecology air quality program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Neil Caudill, Lacey, Washington, (360) 407-6811.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Executive Summary: The Washington state department of ecology is proposing a rule to require reporting of GHG

emissions from sources in the state (chapter 173-441 WAC). The proposed rule requires reporting of emissions from:

Facilities with direct emissions over 10,000 metric tons CO₂e (carbon dioxide-equivalent) of GHG emissions per year.

Suppliers of fuel for transportation - including liquid motor vehicle fuel, special fuel, or aircraft fuel - filing periodic tax reports to the Washington state department of licensing (DOL), and emitting over 10,000 metric tons of GHG emissions per year.

Ecology has analyzed the degree of disproportionate impact of the proposed rule on small business, and concluded that a disproportionate impact does exist.

Ecology took various measures, within the scope of the authorizing statutes, to reduce this disproportionate burden.

The statute included many of these measures, including reducing reporting effort for those facilities required to report under the existing federal rule, and limitation to particular sectors, avoiding possible coverage of more prevalent small businesses in other sectors that would likely need to determine whether their emissions exceed the threshold for reporting.

Ecology chose additional measures such as deferring reporting until the latest year allowed by statute (2012 emissions, reported in 2013), and allowing those entities not reporting under the federal rule to submit emissions reports by the latest date allowed by statute (October 31).

Delaying reporting for entities emitting between 10,000 and 25,000 MT of GHG emissions likely will benefit smaller businesses to a greater extent, as they are a greater proportion of smaller emitters.

Ecology estimated that the costs and payments created by the proposed rule will likely reduce manufacturing-related employment primarily in sectors subject to the proposed rule. This will likely result in the loss of twenty jobs across the state economy, for all sizes of business.

Section 1: Background:

Ecology is proposing a rule to require reporting of GHG emissions from certain sources in the state.

Based on research and analysis required by the Regulatory Fairness Act, RCW 19.85.070, ecology has determined the proposed rule, chapter 173-441 WAC, has a disproportionate impact on small business. Therefore, ecology included cost-minimizing features in the rule where it is legal and feasible to do so.

This document provides the public with an overview of the methods ecology used to perform its analysis, and the features of the rule and rule-development process specifically addressing small business needs. Small businesses are defined as those with fifty or fewer employees.

Due to size limitations relating to the filing of documents with the code reviser, the small business economic impact statement does not contain the appendices that further explain ecology's analysis. Additionally, it does not contain the raw data used in this analysis, or all of ecology's analysis of this data. However, this information is being placed in the rule-making file, and is available upon request. A full analysis of compliance costs is available in the associated cost-benefit analysis for this rule.

Section 2: Compliance Costs for Washington Businesses:

Quantified Costs of Ecology's Proposed Rule: Ecology estimated the quantifiable costs of ecology's proposed rule by determining expected reporters, and estimating the range of compliance costs for each industry.

Federal Reporting Rule Coverage: Ecology expects the federal reporting rule to capture emissions from the largest industrial emitters. The EPA's regulatory impact analysis for the federal reporting rule expects thirty thousand facilities in the United States will need to assess whether they must report, and about thirteen thousand of these will likely meet the threshold to report.

Ecology developed an estimate of the number of Washington state emitters impacted by the federal reporting rule, based on reported fuel consumption and business output. Through that estimate, ecology developed [a] list of seventy-four facilities that likely emit over the federal threshold of 25,000 metric tons per year, from industrial processes covered by the federal rule. Based on the relative proportions of likely reporters to nonreporters at the national level,¹ ecology assumed one hundred businesses in Washington would only need to determine whether they are reporters. This number is highly conservative and likely an overestimate, based on ecology's knowledge of the industries reporting under the federal rule, and those industries in Washington state. However, ecology chose this estimate based on the proportion of reporters to nonreporters in the United States as a whole, as reported by the EPA.

Coverage Under Ecology's Proposed Rule: Ecology expects coverage under the proposed rule to include several manufacturing, commercial, and utility operations, including those reporting under the federal reporting rule. The lower reporting threshold under the proposed rule is expected to include more reporters. This is because of the lower threshold itself, and also to an additional extent because of inclusion of biomass emissions in the threshold determination. These requirements are both dictated by statute.

Based on the energy intensity of different production activities, and employment size of firms as a proxy for operation size, ecology estimated that about two hundred sixty-seven facilities or fuel suppliers (a subset of twelve are also fuel suppliers) operating in the state are likely to be required to report under the proposed rule, eighteen of these facilities are likely to be triggered by biomass emissions.² DOL estimates that sixty-four out of a possible one hundred twenty-five suppliers with the appropriate licenses will exceed Washington's threshold.

Ecology expects that some remaining businesses in the state, in manufacturing, utility, and commerce industries will need to determine their reporting status, but will not need to report. Ecology estimated there are about three thousand remaining manufacturing, commercial, utility facilities, and fuel suppliers, in industries relevant to the proposed rule.³

Difference in Coverage: Overall, based on the additional facilities and sectors described above, ecology expects the proposed rule to cover about three hundred thirty-one facilities and fuel reporters, including:

One hundred seventy-five facilities under 25,000 MT CO₂e expected to report only under the proposed rule.

Eighteen biomass emitters expected to report only under the proposed rule.

Seventy-four facilities expected to report under both the proposed rule, and under the federal reporting rule.

Sixty-four transportation fuel suppliers.

Cost Estimation - Reporters: Ecology developed a list of likely reporters under the proposed rule. For each of these operations, ecology developed an estimated facility compliance cost by industry and biomass compliance cost. Ecology estimated a range of compliance costs, tied to labor and capital cost assumptions developed by the EPA for its regulatory impact analysis for the federal rule.⁴

The proposed rule allows those reporters also reporting under the federal rule to submit emissions reports to the EPA. The EPA then provides reports to ecology. Based on this, ecology assumed the seventy-four likely reporters also reporting to EPA will experience minimal or no additional reporting costs under the proposed rule. Ecology therefore estimated costs for the remaining likely one hundred seventy-five reporters and eighteen biomass-triggered reporters, who only report under the proposed rule.

The low end of the costs range was based on the scenario that only labor costs were necessary for compliance, and emissions could be estimated based on existing or easily accessed records. Ecology's proposed rule allows for various emissions calculations, and ecology expects actual compliance costs to be near the low end of the range, as businesses are likely to minimize costs where possible.

Reporter costs used by ecology were industry-specific where available, and tied to the cost estimation assumptions the EPA used to analyze the federal rule. Utilities expected to report under the proposed rule were assigned estimated costs of stationary combustion from this same analysis. See Appendix A for a breakdown of compliance costs.

Ecology applied a similar effort-based methodology in estimating compliance costs for fuel suppliers. As fuel supplier reporting is based on existing reporting of transportation fuel tax to DOL, ecology estimated the cost of the additional reporting efforts likely required to complete reporting based on existing data.

Based on its analysis of operation-level compliance costs, ecology estimated that about two hundred fifty-seven facilities emitting between 10,000 and 25,000 MT CO₂e [CO₂e] and fuel suppliers are expected to incur total annualized reporting costs of approximately \$966 thousand - \$2.7 million. This is the overall range of possible annualized compliance costs, looking at extreme high and low costs across all, and all possible compliance options including unlikely high-cost options.

Cost Estimation - Nonreporters: Based on the industries impacted in ecology's cost analysis for reporters, ecology assumed a remaining three thousand facilities in the state⁵ would need to determine what action to take in compliance with the rule, but would not need to report. These are facilities involved in the same set of industries likely impacted by the proposed rule.

Ecology followed the EPA's assumptions on the labor required to determine whether to report.⁶ Results based on these EPA estimates were used as the high end of the cost range, as they assume the most conservative (i.e., high) cost

scenario possible. Ecology also calculated this cost based on only the subset of labor required to determine reporting status based on existing fuel and input records, or transportation tax reports to DOL. The range of costs for nonreporters was determined to be \$150 to \$500 per nonreporter.

Ecology assumed the determination of whether to report would be one-time, unless significant changes to existing processes were made. Ecology annualized this range of non-reporter costs to be \$13 to \$44 dollars per year. Summed across all nonreporting facilities fuel suppliers determining whether to report, this is an annualized compliance cost of \$39 thousand - \$132 thousand.

See the Appendix A for a breakdown of compliance costs.

Ecology also noted that some likely nonreporters would be able to determine whether to report during a brief phone call with a member of ecology staff, so the quantified range of annualized costs presented above may be an overestimate.

Reporting Fees: The authorizing statute allows ecology to charge appropriate fees to reporters, based on the expected costs of the program. Ecology estimated the future workload of the reporting program, based on the proposed rule.

Ecology determined which tasks it expects to perform under the proposed rule, and the workload associated with those tasks. The tasks include:

- Rule updates, program administration, program tracking, and fiscal operations.

- Data management.

- Technical support.

- Compliance and enforcement.

- Management and oversight.

- Data verification.

- Administrative support in billing and correspondence.

Ecology estimated the workload associated with each task, and the total compensation estimate for each position involved. Total compensation included:

- Salaries.

- Benefits.

- Goods.

- Travel.

- Indirect costs.

Ecology estimated that overall program costs will be about \$408 thousand per year for administering the proposed reporting rule. This cost represents ecology's current best estimate, and could change depending on the actual workload associated with running the GHG emissions reporting program.

To allocate reporter fees across likely reporters, ecology followed the language in the proposed rule. Ecology broke the budget down into seventy-five percent of fees paid by facility reporters, and twenty-five percent paid by fuel suppliers. Within these two categories, fees would be determined by division of the budget for the reporter category (facilities or fuel suppliers) by the number of reporters in that category. Overall:

- Facilities will likely pay an approximate fee of \$1,150 per year.

- Fuel suppliers will likely pay an approximate fee of \$1,590 per year.

These are estimated values, based on the expected annual costs of the program at the time of this publication. If the realized composition of reporters and nonreporters differs from ecology's assumptions, actual fees may differ.

Ecology summed the estimated reporting fees to determine total expected annual reporting costs to of \$408 thousand.

Section 3: Quantification of Cost Ratios:

The costs of the proposed rule are not uniformly spread across businesses, especially as pertains to business size. Ecology matched industries and, where possible, individual businesses with employment numbers (ESD, 2010). Ecology then determined the interaction between compliance costs and business size.

Based on the interaction of business size and compliance costs, ecology determined:

Which businesses or subsets of industries are required to comply with the proposed rule, and incur costs.

Which businesses are small, and which businesses comprise the largest ten percent of impacted businesses.

Ecology divided each entity's compliance costs by the number of employees there. Ecology then averaged these cost-to-employment ratios for the small business group, and the large business group.

Ecology calculated the broadest range possible for the average annualized cost per employee as \$2 - 4 thousand for small businesses impacted by the proposed rule. The average annualized cost per employee for the largest ten percent of businesses was calculated to be twenty-five - thirty cents.

A contributing factor to the largest possible average annual costs per employee, for small businesses, is the appearance in the data of sole proprietorships that own large businesses. When a range of employment was available for a business, ecology conservatively chose the smallest employment number available, as not to underrepresent small businesses in the data. This contributed to the largest small business costs per employee. Ecology believes a single-employee reporter is highly unlikely to exist under the proposed rule, and the appearance of sole proprietorships in the data is a result of conservative data usage, and data limitations.

A sole proprietorship is made additionally unlikely by the high likelihood that small reporters will have smaller emissions, making compliance costs or costs to determine whether to report smaller.

Irrespective of the possible existence of a sole proprietorship, ecology calculated disproportionate costs per employee, and concluded that the proposed rule will likely impose disproportionate costs on small business. Ecology included cost-mitigating components in the proposed rule to reduce this disproportionate impact. This small business cost mitigation is further described in the next chapter.

Section 4: Actions Taken to Reduce Small Business Impacts:

Ecology took a number of actions in the proposed rule, to reduce the disproportionate impacts on small businesses. It is important to note that small businesses are likely to be low emitters.

Aspects of the proposed rule that attempt to reduce the disproportionate compliance costs to small businesses include:

The statute included many of these measures, including reducing reporting effort for those facilities required to report under the existing federal rule. Consistency with the federal rule also helps small business not required to report to EPA by allowing them to use EPA's electronic reporting tool and increasing the number of resources and training events available on the protocols. Using the federal protocols means the protocols are reviewed and commented on by a very large number of organizations and trade groups throughout the country. This increases the quality of the protocols, minimizing compliance costs, without requiring an individual investment by a local small business. Protocol tiers included in EPA's methods give smaller emission sources easier, cheaper methods to track and report emissions.

Limiting reporting to particular sectors included in the federal program, avoids possible coverage of more prevalent small businesses in other sectors that would likely need to determine whether their emissions exceed the threshold for reporting. Many of the emission sources, such as fleets and fugitive emissions from refrigeration and cooling equipment, are prevalent in small businesses and costly to track and report.

Ecology chose additional measures such as deferring reporting until the latest year allowed by statute (2012 emissions, reported in 2013), and allowing those organizations not reporting under the federal rule to submit emissions reports by the latest date allowed by statute (October 31).

Delaying reporting for organizations emitting between 10,000 and 25,000 MT CO₂e of GHG emissions likely will benefit smaller businesses to a greater extent, as they are a greater proportion of smaller emitters.

Ecology chose to implement a flat fee for all facilities and a separate flat fee for all suppliers to minimize costs to small businesses. A flat fee opposed to an emissions based fee normally would favor large businesses, but due to the unique relationship between the Washington and federal reporting programs the opposite is true in this case. Washington will rely on EPA verification to reduce overall costs. EPA will only verify emissions for reporters over 25,000 MT CO₂e/year. This means ecology will have to verify reports from sources less than 25,000 MT CO₂e/year, which correlate to smaller businesses, and will increase agency costs for those reporters. Since the authorizing statute establishes that fees are based on agency costs, a flat fee prevents smaller sources paying higher fees.

Section 5: Small Business Involvement:

Ecology attempted to identify potential reporters, including small businesses, and invite them to technical assistance workshops held throughout the state. This also informed smaller reporters about the rule and led to many one-on-one technical assistance contacts between potential reporters and ecology staff. Ecology's stakeholder meetings were open to the public, and the agency e-mailed updates and invitations to all parties that expressed interest in the rule, including small businesses.

Section 6: NAICS Codes of Impacted Industries:

Ecology expects the proposed rule to impact a broad range of industries. Table 1 presents the NAICS codes of those industries. For industry groups with all subindustries possibly impacted, ecology has listed only the 3-digit group code. Fuel suppliers fall primarily in the 4247 group.

221	2212	3329	4413	5152	5629
311	2213	3331	4441	5171	6111
321	2361	3332	4442	5172	6112
322	2362	3339	4451	5179	6215
324	2371	3341	4471	5221	6216
325	2372	3345	4521	5222	6219
327	2373	3359	4529	5234	6221
332	2379	3361	4539	5239	6241
335	2381	3364	4543	5241	6242
336	2382	3366	4811	5311	6244
481	2383	3371	4821	5312	7127
482	2389	4231	4831	5321	7223
483	3112	4233	4841	5322	8114
492	3114	4234	4842	5324	8121
562	3115	4235	4851	5411	8123
622	3116	4236	4852	5413	8129
1111	3118	4237	4853	5416	8131
1112	3119	4238	4855	5417	8133
1113	3121	4239	4859	5418	8134
1114	3211	4241	4882	5419	
1119	3219	4242	4883	5511	
1121	3222	4244	4884	5612	
1133	3241	4245	4885	5613	
1151	3254	4246	4889	5615	
2111	3255	4247	4921	5616	
2122	3256	4248	4931	5617	
2123	3273	4249	5111	5619	
2131	3311	4411	5112	5621	
2211	3323	4412	5151	5622	

Section 7: Impact on Jobs:

Ecology used the Washington state office of financial management's 2002 Washington input-output model (OFM-IO) to estimate the proposed rule's first-round impact on jobs across the state. This methodology estimates the impact as reductions or increases in spending in certain sectors of the state economy flow through to purchases, suppliers, and demand for other goods. Compliance costs incurred by an industry, or industries, are entered in the OFM-IO model as decreases in spending and investment.

Ecology calculated that about twenty jobs are likely to be permanently lost under the proposed rule. Ecology was not able to estimate the second-round impacts of the proposed

rule, which include the earned income of secondary parties and reduce overall job impacts.

¹Environmental Protection Agency (2009). Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Proposed Rule (GHG Reporting), Final Report. http://www.epa.gov/climatechange/emissions/downloads/GHG_RIA.pdf.

²Washington state employment security department. Workforce Explorer. <http://www.workforceexplorer.com/cgi/dataanalysis/?PAGEID=94&SUBID=149>, Nicholas Institute for Environmental Policy Solutions (2007). Size Thresholds for GHG Regulation: Who Would be Affected by a 10,000 ton CO2 Emission Rule, and Energy Information Administration (2002). Manufacturing Energy Consumption Survey. Table 6.4 Manufacturing fuel consumption by Manufacturing Industry and Employment Size.

³Washington state employment security department, Workforce Explorer. <http://www.workforceexplorer.com/>

⁴Environmental Protection Agency (2009). Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Proposed Rule (GHG Reporting), Final Report. http://www.epa.gov/climatechange/emissions/downloads/GHG_RIA.pdf

⁵Washington state employment security department. Workforce Explorer. <http://www.workforceexplorer.com/cgi/dataanalysis/?PAGEID=94&SUBID=149>, Nicholas Institute for Environmental Policy Solutions (2007). Size Thresholds for GHG Regulation: Who Would Be Affected by a 10,000 ton CO2 Emission Rule, and Energy Information Administration (2002). Manufacturing Energy Consumption Survey. Table 6.4 Manufacturing fuel consumption by Manufacturing Industry and Employment Size.

⁶Environmental Protection Agency (2009). Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Proposed Rule (GHG Reporting), Final Report. http://www.epa.gov/climatechange/emissions/downloads/GHG_RIA.pdf.

A copy of the statement may be obtained by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Lacey, WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail kasia.patora@ecy.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Lacey, WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail kasia.patora@ecy.wa.gov.

August 26, 2010
 Polly Zehm
 Deputy Director

Chapter 173-441 WAC

REPORTING OF EMISSIONS OF GREENHOUSE GASES

NEW SECTION

WAC 173-441-010 Scope. This rule establishes mandatory GHG reporting requirements for owners and operators of certain facilities that directly emit GHG as well as for certain suppliers of liquid motor vehicle fuel, special fuel, or aircraft fuel. For suppliers, the GHGs reported are the quantity that would be emitted from the complete combustion or oxidation of the products supplied.

NEW SECTION

WAC 173-441-020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) Definitions specific to this chapter:

(a) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(b) "Carbon dioxide equivalents" or "CO₂e" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(c) "Department of licensing" or "DOL" means the Washington state department of licensing.

(d) "Director" means the director of the department of ecology.

(e) "Ecology" means the Washington state department of ecology.

(f) "Facility" unless otherwise specified in any subpart of 40 C.F.R. Part 98 as effective on or proposed by August 1, 2010, means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right of way and under common ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.

(g) "Greenhouse gas," "greenhouse gases," "GHG," and "GHGs" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Beginning on January 1, 2012, "greenhouse gas" also includes any other gas or gases designated by ecology by rule in Table A-1 in WAC 173-441-040.

(h) "Person" includes:

(i) An owner or operator, as those terms are defined by the United States Environmental Protection Agency in its mandatory greenhouse gas reporting regulation in 40 C.F.R. Part 98, as effective on August 1, 2010; and

(ii) A supplier.

(i) "Supplier" means any person who is:

(i) A motor vehicle fuel supplier or a motor vehicle fuel importer, as those terms are defined in RCW 82.36.010;

(ii) A special fuel supplier or a special fuel importer, as those terms are defined in RCW 82.38.020; or

(iii) A distributor of aircraft fuel, as the term is defined in RCW 82.42.010.

(2) Definitions specific to suppliers. Suppliers must use the definitions found in the following regulations unless the definition is in conflict with a definition found in subsection (1) of this section. These definitions do not apply to facilities.

(a) WAC 308-72-800;

(b) WAC 308-77-005; and

(c) WAC 308-78-010.

(3) Definitions from 40 C.F.R. Part 98. For those terms not listed in subsection (1) or (2) of this section, the definitions found in 40 C.F.R. Part 98.6, as effective on or proposed by August 1, 2010, are adopted by reference as modified in WAC 173-441-120(2).

(4) Definitions from chapter 173-400 WAC. If no definition is provided in subsections (1) through (3) in this section, use the definition found in chapter 173-400 WAC.

NEW SECTION

WAC 173-441-030 Applicability. The GHG reporting requirements and related monitoring, recordkeeping, and reporting requirements of this chapter apply to the owners and operators of any facility that meets the requirements of subsection (1) of this section; and any supplier that meets the requirements of subsection (2) of this section. In determining whether reporting is required, the requirements of subsection (1) must be applied independently of the requirements of subsection (2).

(1) Facility reporting. Reporting is mandatory for an owner or operator of any facility located in Washington state with total GHG emissions that exceeds the reporting threshold. GHG emissions from all applicable source categories listed in WAC 173-441-120 at the facility must be included when determining whether emissions from the facility meet the reporting threshold.

(a) Reporting threshold. Any facility that emits ten thousand metric tons CO₂e or more per calendar year in total GHG emissions from all applicable source categories listed in WAC 173-441-120 exceeds the reporting threshold.

(b) Calculating emissions for comparison to the threshold. To calculate GHG emissions for comparison to the reporting threshold, the owner or operator must:

(i) Calculate the total annual emissions of each GHG in metric tons from all applicable source categories that are listed and defined in WAC 173-441-120. The GHG emissions must be calculated using the calculation methodologies specified in WAC 173-441-120 and available company records.

(ii) Include emissions of all GHGs that are listed in Table A-1 of WAC 173-441-040, including all GHG emissions from the combustion of biomass and all fugitive releases of GHG emissions from biomass.

(iii) Sum the emissions estimates for each GHG and calculate metric tons of CO₂e using Equation A-1 of this subsection.

$$CO_2e = \sum_{i=1}^n GHG_i \times GWP_i \quad (Eq. A - 1)$$

Where:

CO₂e = Carbon dioxide equivalent, metric tons/year.

- GHG_i = Mass emissions of each greenhouse gas listed in Table A-1 of WAC 173-441-040, metric tons/year.
- GWP_i = Global warming potential for each greenhouse gas from Table A-1 of WAC 173-441-040.
- n = The number of greenhouse gases emitted.

(iv) Include in the emissions calculation any CO₂ that is captured for transfer off-site.

(v) Research and development activities are not considered to be part of any source category defined in this chapter.

(2) **Suppliers.** Reporting is mandatory for any supplier required to file periodic tax reports to DOL and has total carbon dioxide emissions that exceed the reporting threshold.

(a) **Reporting threshold.** Any supplier that supplies applicable fuels that are reported to DOL as sold in Washington state of which the complete combustion or oxidation would result in total calendar year emissions of ten thousand metric tons or more of carbon dioxide exceeds the reporting threshold.

(b) **Calculating emissions for comparison to the threshold.** To calculate GHG emissions for comparison to the reporting threshold, a supplier must:

(i) Base its emissions on the applicable fuel quantities as established in WAC 173-441-130(1) and reported to DOL. A supplier must apply the mass in metric tons per year of CO₂ that would result from the complete combustion or oxidation of these fuels towards the reporting threshold.

(ii) Calculate the total annual carbon dioxide emissions in metric tons from all applicable fuel quantities and fuel types as established in WAC 173-441-130(1) and reported to DOL. The GHG emissions must be calculated using the calculation methodologies specified in WAC 173-441-130 and data reported to DOL.

(iii) Only include emissions of carbon dioxide associated with the complete combustion or oxidation of the applicable fuels. Include all CO₂ emissions from the combustion of biomass fuels.

(iv) Include in the emissions calculation any CO₂ that is captured for transfer off-site.

(v) Research and development activities are not considered to be part of any source category defined in this chapter.

(3) **Applicability over time.** A person that does not meet the applicability requirements of either subsection (1) or (2) of this section is not subject to this rule. Such a person would become subject to the rule and the reporting requirements of this chapter if they exceed the applicability requirements of subsection (1) or (2) of this section at a later time. Thus, persons should reevaluate the applicability to this chapter (including the revising of any relevant emissions calculations or other calculations) whenever there is any change that could cause a facility or supplier to meet the applicability requirements of subsection (1) or (2) of this section. Such changes include, but are not limited to, process modifications, increases in operating hours, increases in production, changes in fuel or raw material use, addition of equipment, facility expansion, and changes to this chapter.

(4) **Voluntary reporting.** A person may choose to voluntarily report to ecology GHG emissions that are not required to be reported under subsection (1) or (2) of this section. Persons voluntarily reporting GHG emissions must use the methods established in WAC 173-441-120(3) and 173-441-130 to calculate any voluntarily reported GHG emissions.

(5) **Reporting requirements when emissions of greenhouse gases fall below reporting thresholds.** Except as provided in this subsection, once a facility or supplier is subject to the requirements of this chapter, the person must continue for each year thereafter to comply with all requirements of this chapter, including the requirement to submit annual GHG reports, even if the facility or supplier does not meet the applicability requirements in subsection (1) or (2) of this section in a future year.

(a) If reported emissions are less than ten thousand metric tons CO₂e per year for five consecutive years, then the person may discontinue complying with this chapter provided that the person submits a notification to ecology that announces the cessation of reporting and explains the reasons for the reduction in emissions. The notification shall be submitted no later than March 31st of the year immediately following the fifth consecutive year of emissions less than ten thousand tons CO₂e per year. The person must maintain the corresponding records required under WAC 173-441-050(6) for each of the five consecutive years and retain such records for three years following the year that reporting was discontinued. The person must resume reporting if annual emissions in any future calendar year increase above the thresholds in subsection (1) or (2) of this section.

(b) If reported emissions are less than five thousand metric tons CO₂e per year for three consecutive years, then the person may discontinue complying with this chapter provided that the person submits a notification to ecology that announces the cessation of reporting and explains the reasons for the reduction in emissions. The notification shall be submitted no later than March 31st of the year immediately following the third consecutive year of emissions less than five thousand tons CO₂e per year. The person must maintain the corresponding records required under WAC 173-441-050(6) for each of the three consecutive years and retain such records for three years following the year that reporting was discontinued. The person must resume reporting if annual emissions in any future calendar year increase above the thresholds in subsection (1) or (2) of this section.

(c) If the operations of a facility or supplier are changed such that all applicable GHG-emitting processes and operations listed in WAC 173-441-120 and 173-441-130 cease to operate, then the person is exempt from reporting in the years following the year in which cessation of such operations occurs, provided that the person submits a notification to ecology that announces the cessation of reporting and certifies to the closure of all GHG-emitting processes and operations. This provision does not apply to seasonal or other temporary cessation of operations. This provision does not apply to facilities with municipal solid waste landfills. The person must resume reporting for any future calendar year during which any of the GHG-emitting processes or operations resume operation.

NEW SECTION

WAC 173-441-040 Greenhouse gases. (1) **Greenhouse gases.** Table A-1 of this section lists the GHGs regulated under this chapter and their global warming potentials.

(2) **CO₂e conversion.** Use Equation A-1 of WAC 173-441-030 (1)(b)(iii) and the global warming potentials listed in Table A-1 of this section to convert emissions into CO₂e.

**Table A-1:
Global Warming Potentials (100-Year Time Horizon)**

Name	CAS No.	Chemical Formula	Global Warming Potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
All other HFCs	NA	NA	Contact ecology
Sulfur hexafluoride	2551-62-4	SF ₆	23,900
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
All other PFCs	NA	NA	Contact ecology
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350

Name	CAS No.	Chemical Formula	Global Warming Potential (100 yr.)
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320
HFE-143a	421-14-7	CH ₃ OCF ₃	756
HFE-227ea	2356-62-9	CF ₃ CHFOCF ₃	1,540
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	2,800
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	989
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	487
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	708
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	286
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	659
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	359
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	11
HFE-329mcc2	67490-36-2	CF ₃ CF ₂ OCF ₂ CHF ₂	919
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	552
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	1,500
HFE-347mcc3	28523-86-6	CH ₃ OCF ₂ CF ₂ CF ₃	575
HFE-347mcf2	E1730135	CF ₃ CF ₂ OCH ₂ CHF ₂	374
HFE-347pcf2	406-78-0	CHF ₂ CF ₂ OCH ₂ CF ₃	580
HFE-356mcc3	382-34-3	CH ₃ OCF ₂ CHFCF ₃	101
HFE-356pcc3	160620-20-2	CH ₃ OCF ₂ CF ₂ CHF ₂	110
HFE-356pcf2	E1730137	CHF ₂ CH ₂ OCF ₂ CHF ₂	265
HFE-356pcf3	35042-99-0	CHF ₂ OCH ₂ CF ₂ CHF ₂	502
HFE-365mcf3	378-16-5	CF ₃ CF ₂ CH ₂ OCH ₃	11
HFE-374pc2	512-51-6	CH ₃ CH ₂ OCF ₂ CHF ₂	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	C ₄ F ₉ OCH ₃ (CF ₃) ₂ CF ₂ OCH ₃	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	C ₄ F ₉ OC ₂ H ₅ (CF ₃) ₂ CF ₂ OC ₂ H ₅	59
Sevoflurane	28523-86-6	CH ₂ FOCH(CF ₃) ₂	345
HFE-356mm1	13171-18-1	(CF ₃) ₂ CHOCH ₃	27
HFE-338mmz1	26103-08-2	CHF ₂ OCH(CF ₃) ₂	380
(Octafluorotetramethy-lene) hydroxymethyl group	NA	X-(CF ₂) ₄ CH(OH)-X	73
HFE-347mmy1	22052-84-2	CH ₃ OCF(CF ₃) ₂	343
Bis(trifluoromethyl)-methanol	920-66-1	(CF ₃) ₂ CHOH	195
2,2,3,3,3-pentafluoropropanol	422-05-9	CF ₃ CF ₂ CH ₂ OH	42
PFPMIE	NA	CF ₃ OCF(CF ₃)CF ₂ OCF ₂ OCF ₃	10,300

NA = not available.

NEW SECTION

WAC 173-441-050 General monitoring, reporting, recordkeeping and verification requirements. Persons subject to the requirements of this chapter must submit GHG reports to ecology, as specified in this section.

(1) **General.** Follow the procedures for emission calculation, monitoring, quality assurance, missing data, record-keeping, and reporting that are specified in each relevant section of this chapter.

(2) **Schedule.** The annual GHG report must be submitted as follows:

(a) Report submission due date:

(i) A person required to report GHG emissions to the United States Environmental Protection Agency under 40 C.F.R. Part 98 must submit the report required under this chapter to ecology no later than March 31st of each calendar year for GHG emissions in the previous calendar year.

(ii) A person not required to report GHG emissions to the United States Environmental Protection Agency under 40 C.F.R. Part 98 must submit the report required under this chapter to ecology no later than October 31st of each calendar year for GHG emissions in the previous calendar year.

(b) Reporting requirements begin:

(i) For an existing facility or supplier that began operation before January 1, 2012, report emissions for calendar year 2012 and each subsequent calendar year.

(ii) For a new facility or supplier that begins operation on or after January 1, 2012, report emissions beginning with the first operating month and ending on December 31st of that year. Each subsequent annual report must cover emissions for the calendar year, beginning on January 1st and ending on December 31st.

(iii) For any facility or supplier that becomes subject to this rule because of a physical or operational change that is made after January 1, 2012, report emissions for the first calendar year in which the change occurs.

(A) Facilities begin reporting with the first month of the change and ending on December 31st of that year. For a facility that becomes subject to this rule solely because of an increase in hours of operation or level of production, the first month of the change is the month in which the increased hours of operation or level of production, if maintained for the remainder of the year, would cause the facility or supplier to exceed the applicable threshold.

(B) Suppliers begin reporting January 1st and ending on December 31st the year of the change.

(C) For both facilities and suppliers, each subsequent annual report must cover emissions for the calendar year, beginning on January 1st and ending on December 31st.

(3) **Content of the annual report.** Each annual GHG report shall contain the following information:

(a) Facility name or supplier name (as appropriate), facility or supplier ID number, and physical street address of the facility or supplier, including the city, state, and zip code.

(b) Year and months covered by the report.

(c) Date of submittal.

(d) For facilities, report annual emissions of each GHG (as defined in WAC 173-441-020) as follows:

(i) Annual emissions (including biogenic CO₂) aggregated for all GHGs from all applicable source categories in WAC 173-441-120 and expressed in metric tons of CO₂e calculated using Equation A-1 of WAC 173-441-030 (1)(b)(iii).

(ii) Annual emissions of biogenic CO₂ aggregated for all applicable source categories in WAC 173-441-120 in metric tons. Units that use the methodologies in 40 C.F.R. Part 75 to calculate CO₂ mass emissions are not required to separately report biogenic CO₂ emissions, but may do so as an option.

(iii) Annual emissions from each applicable source category in WAC 173-441-120, expressed in metric tons of each applicable GHG listed in subsections (3)(d)(iii)(A) through (E) of this section.

(A) Biogenic CO₂. Units that use the methodologies in 40 C.F.R. Part 75 to calculate CO₂ mass emissions are not required to separately report biogenic CO₂ emissions, but may do so as an option.

(B) CO₂ (including biogenic CO₂).

(C) CH₄.

(D) N₂O.

(E) Each fluorinated GHG.

(iv) Emissions and other data for individual units, processes, activities, and operations as specified in the "data reporting requirements" section of each applicable source category referenced in WAC 173-441-120.

(v) Indicate whether reported emissions from the facility include emissions from a cogeneration unit (yes or no).

(e) For suppliers, report the following information:

(i) Annual emissions of CO₂, expressed in metric tons of CO₂, as required in subsections (3)(e)(i)(A) and (B) of this section that would be emitted from the complete combustion or oxidation of the fuels reported to DOL as sold in Washington state during the calendar year.

(A) Aggregate biogenic CO₂.

(B) Aggregate CO₂ (including nonbiogenic and biogenic CO₂).

(ii) All contact information reported to DOL not included in (a) of this subsection.

(f) A written explanation, as required under subsection (4) of this section, if you change emission calculation methodologies during the reporting period.

(g) Each data element for which a missing data procedure was used according to the procedures of an applicable subpart referenced in WAC 173-441-120 and the total number of hours in the year that a missing data procedure was used for each data element.

(h) A signed and dated certification statement provided by the designated representative of the owner or operator, according to the requirements of WAC 173-441-060 (5)(a).

(i) NAICS code(s) that apply to the facility or supplier.

(i) Primary NAICS code. Report the NAICS code(s) that most accurately describes the primary product/activity/service at the facility, based on revenue. The primary product/activity/service at the facility provides economic profit and is the principal source of revenue.

(ii) Additional NAICS code(s). Report additional NAICS codes that correspond to product(s)/activity(s)/service(s) at the facility that provide economic profit, but that are not related to the principal source of revenue. If more than one additional NAICS code applies, list the additional NAICS codes in the order of the largest revenue to the smallest.

(j) Legal name(s) and physical address(es) of the highest-level United States parent company(s) and the percentage of ownership interest for each listed parent company as of December 31st of the reporting year.

(i) For reporting the United States parent company(s) and their percentage(s) of ownership interest, follow these instructions:

(A) If the reporting entity is entirely owned by a single United States company that is not owned by another company, provide that company's legal name and physical

address as the United States parent company and report one hundred percent ownership.

(B) If the reporting entity is entirely owned by a single United States company that is, itself, owned by another company (e.g., it is a division or subsidiary of a higher-level company), provide the legal name and physical address of the highest-level company in the ownership hierarchy as the United States parent company and report one hundred percent ownership.

(C) If the reporting entity is owned by more than one United States company (e.g., company A owns forty percent, company B owns thirty-five percent, and company C owns twenty-five percent), provide the legal names and physical addresses of all the companies with an ownership interest as the United States parent companies and report the percent ownership of each.

(D) If the reporting entity is owned by a joint venture or a cooperative, the joint venture or cooperative is its own United States parent company. Provide the legal name and physical address of the joint venture or cooperative as the United States parent company, and report one hundred percent ownership by the joint venture or cooperative.

(E) If the reporting entity is entirely owned by a foreign company, provide the legal name and physical address of the foreign company's highest-level company based in the United States as the United States parent company, and report one hundred percent ownership.

(F) If the reporting entity is partially owned by a foreign company, provide the legal name and physical address of the foreign company's highest-level company based in the United States, along with the legal names and physical addresses of all the other companies with an ownership interest, as United States parent companies, and report the percent ownership of each of these companies.

(G) If you are reporting for a federally owned facility, report "U.S. Government" and do not report physical address or percent ownership.

(ii) Reserved.

(4) **Emission calculations.** In preparing the GHG report, you must use the calculation methodologies specified in the relevant sections of this chapter. For each source category, you must use the same calculation methodology throughout a reporting period unless you provide a written explanation of why a change in methodology was required.

(5) **Verification.** To verify the completeness and accuracy of reported GHG emissions, ecology may review the certification statements described in subsection (3)(h) of this section and any other credible evidence, in conjunction with a comprehensive review of the GHG reports and periodic audits of selected reporting facilities. Nothing in this section prohibits ecology from using additional information to verify the completeness and accuracy of the reports.

(6) **Recordkeeping.** A person that reports GHGs under this chapter must keep records as specified in this subsection. Retain all required records for at least three years. The records shall be kept in an electronic or hard copy format (as appropriate) and recorded in a form that is suitable for expeditious inspection and review. Upon request by ecology, the records required under this section must be made available to ecology. Records may be retained off-site if the records are

readily available for expeditious inspection and review. For records that are electronically generated or maintained, the equipment or software necessary to read the records shall be made available, or, if requested by ecology, electronic records shall be converted to paper documents. You must retain the following records, in addition to those records prescribed in each applicable section of this chapter:

(a) A list of all units, operations, processes, and activities for which GHG emissions were calculated.

(b) The data used to calculate the GHG emissions for each unit, operation, process, and activity, categorized by fuel or material type. These data include, but are not limited to, the following information:

(i) The GHG emissions calculations and methods used.

(ii) Analytical results for the development of site-specific emissions factors.

(iii) The results of all required analyses for high heat value, carbon content, and other required fuel or feedstock parameters.

(iv) Any facility operating data or process information used for the GHG emission calculations.

(c) The annual GHG reports.

(d) Missing data computations. For each missing data event, also retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment.

(e) Owners or operators required to report under WAC 173-441-030(1) must keep a written GHG monitoring plan.

(i) At a minimum, the GHG monitoring plan shall include the following elements:

(A) Identification of positions of responsibility (i.e., job titles) for collection of the emissions data.

(B) Explanation of the processes and methods used to collect the necessary data for the GHG calculations.

(C) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(ii) The GHG monitoring plan may rely on references to existing corporate documents (e.g., standard operating procedures, quality assurance programs under appendix F to 40 C.F.R. Part 60 or appendix B to 40 C.F.R. Part 75, and other documents) provided that the elements required by (e)(i) of this subsection are easily recognizable.

(iii) The owner or operator shall revise the GHG monitoring plan as needed to reflect changes in production processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

(iv) Upon request by ecology, the owner or operator shall make all information that is collected in conformance with the GHG monitoring plan available for review during an audit. Electronic storage of the information in the plan is permissible, provided that the information can be made available in hard copy upon request during an audit.

(f) The results of all required certification and quality assurance tests of continuous monitoring systems, fuel flow

meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(g) Maintenance records for all continuous monitoring systems, flow meters, and other instrumentation used to provide data for the GHGs reported under this chapter.

(h) Suppliers must retain any other data specified in WAC 173-441-130(5).

(7) Annual GHG report revisions.

(a) A person shall submit a revised annual GHG report within forty-five days of discovering that an annual GHG report that the person previously submitted contains one or more substantive errors. The revised report must correct all substantive errors.

(b) Ecology may notify the person in writing that an annual GHG report previously submitted by the person contains one or more substantive errors. Such notification will identify each such substantive error. The person shall, within forty-five days of receipt of the notification, either resubmit the report that, for each identified substantive error, corrects the identified substantive error (in accordance with the applicable requirements of this chapter) or provide information demonstrating that the previously submitted report does not contain the identified substantive error or that the identified error is not a substantive error.

(c) A substantive error is an error that impacts the quantity of GHG emissions reported or otherwise prevents the reported data from being validated or verified.

(d) Notwithstanding (a) and (b) of this subsection, upon request by a person, ecology may provide reasonable extensions of the forty-five day period for submission of the revised report or information under (a) and (b) of this subsection. If ecology receives a request for extension of the forty-five day period, by e-mail to an address prescribed by ecology, at least two business days prior to the expiration of the forty-five day period, and ecology does not respond to the request by the end of such period, the extension request is deemed to be automatically granted for thirty more days. During the automatic thirty-day extension, ecology will determine what extension, if any, beyond the automatic extension is reasonable and will provide any such additional extension.

(e) The owner or operator shall retain documentation for three years to support any revision made to an annual GHG report.

(8) Calibration and accuracy requirements. The owner or operator of a facility that is subject to the requirements of this chapter must meet the applicable flow meter calibration and accuracy requirements of this subsection. The accuracy specifications in this subsection do not apply where either the use of company records (as defined in WAC 173-441-020(3)) or the use of "best available information" is specified in an applicable subsection of this chapter to quantify fuel usage and/or other parameters. Further, the provisions of this subsection do not apply to stationary fuel combustion units that use the methodologies in 40 C.F.R. Part 75 to calculate CO₂ mass emissions. Suppliers subject to the requirements of this chapter must meet the calibration accuracy requirements in chapters 308-72, 308-77, and 308-78 WAC.

(a) Except as otherwise provided in (d) through (f) of this subsection, flow meters that measure liquid and gaseous fuel feed rates, process stream flow rates, or feedstock flow rates and provide data for the GHG emissions calculations, shall be calibrated prior to January 1, 2012, using the procedures specified in this subsection when such calibration is specified in a relevant section of this chapter. Each of these flow meters shall meet the applicable accuracy specification in (b) or (c) of this subsection. All other measurement devices (e.g., weighing devices) that are required by a relevant subsection of this chapter, and that are used to provide data for the GHG emissions calculations, shall also be calibrated prior to January 1, 2012; however, the accuracy specifications in (b) and (c) of this subsection do not apply to these devices. Rather, each of these measurement devices shall be calibrated to meet the accuracy requirement specified for the device in the applicable subsection of this chapter, or, in the absence of such accuracy requirement, the device must be calibrated to an accuracy within the appropriate error range for the specific measurement technology, based on an applicable operating standard including, but not limited to, industry standards and manufacturer's specifications. The procedures and methods used to quality-assure the data from each measurement device shall be documented in the written monitoring plan, pursuant to subsection (6)(e)(i)(C) of this section.

(i) All flow meters and other measurement devices that are subject to the provisions of this subsection must be calibrated according to one of the following: You may use the manufacturer's recommended procedures; an appropriate industry consensus standard method; or a method specified in a relevant section of this chapter. The calibration method(s) used shall be documented in the monitoring plan required under subsection (6)(e) of this section.

(ii) For facilities and suppliers that become subject to this chapter after January 1, 2012, all flow meters and other measurement devices (if any) that are required by the relevant subsection(s) of this chapter to provide data for the GHG emissions calculations shall be installed no later than the date on which data collection is required to begin using the measurement device, and the initial calibration(s) required by this subsection (if any) shall be performed no later than that date.

(iii) Except as otherwise provided in (d) through (f) of this subsection, subsequent recalibrations of the flow meters and other measurement devices subject to the requirements of this subsection shall be performed at one of the following frequencies:

(A) You may use the frequency specified in each applicable subsection of this chapter.

(B) You may use the frequency recommended by the manufacturer or by an industry consensus standard practice, if no recalibration frequency is specified in an applicable subsection.

(b) Perform all flow meter calibration at measurement points that are representative of the normal operating range of the meter. Except for the orifice, nozzle, and venturi flow meters described in (c) of this subsection, calculate the calibration error at each measurement point using Equation A-2 of this subsection. The terms "R" and "A" in Equation A-2 must be expressed in consistent units of measure (e.g., gallons/minute, ft³/min). The calibration error at each measure-

ment point shall not exceed 5.0 percent of the reference value.

$$CE = \frac{|R-A|}{R} \times 100 \quad (\text{Eq. A-2})$$

Where:

- CE = Calibration error (%)
- R = Reference value
- A = Flow meter response to the reference value

(c) For orifice, nozzle, and venturi flow meters, the initial quality assurance consists of in situ calibration of the differential pressure (delta-P), total pressure, and temperature transmitters.

(i) Calibrate each transmitter at a zero point and at least one upscale point. Fixed reference points, such as the freezing point of water, may be used for temperature transmitter calibrations. Calculate the calibration error of each transmitter at each measurement point, using Equation A-3 of this subsection. The terms "R", "A", and "FS" in Equation A-3 of this subsection must be in consistent units of measure (e.g., milliamperes, inches of water, psi, degrees). For each transmitter, the CE value at each measurement point shall not exceed 2.0 percent of full-scale. Alternatively, the results are acceptable if the sum of the calculated CE values for the three transmitters at each calibration level (i.e., at the zero level and at each upscale level) does not exceed 6.0 percent.

$$CE = \frac{|R-A|}{FS} \times 100 \quad (\text{Eq. A-3})$$

Where:

- CE = Calibration error (%)
- R = Reference value
- A = Transmitter response to the reference value
- FS = Full-scale value of the transmitter

(ii) In cases where there are only two transmitters (i.e., differential pressure and either temperature or total pressure) in the immediate vicinity of the flow meter's primary element (e.g., the orifice plate), or when there is only a differential pressure transmitter in close proximity to the primary element, calibration of these existing transmitters to a CE of 2.0 percent or less at each measurement point is still required, in accordance with (c)(i) of this subsection; alternatively, when two transmitters are calibrated, the results are acceptable if the sum of the CE values for the two transmitters at each calibration level does not exceed 4.0 percent. However, note that installation and calibration of an additional transmitter (or transmitters) at the flow monitor location to measure temperature or total pressure or both is not required in these cases. Instead, you may use assumed values for temperature and/or total pressure, based on measurements of these parameters at a remote location (or locations), provided that the following conditions are met:

(A) You must demonstrate that measurements at the remote location(s) can, when appropriate correction factors are applied, reliably and accurately represent the actual temperature or total pressure at the flow meter under all expected ambient conditions.

(B) You must make all temperature and/or total pressure measurements in the demonstration described in (c)(ii)(A) of this subsection with calibrated gauges, sensors, transmitters, or other appropriate measurement devices. At a minimum, calibrate each of these devices to an accuracy within the appropriate error range for the specific measurement technology, according to one of the following: You may calibrate using an industry consensus standards or a manufacturer's specification.

(C) You must document the methods used for the demonstration described in (c)(ii)(A) of this subsection in the written monitoring plan under subsection (6)(e)(i)(C) of this section. You must also include the data from the demonstration, the mathematical correlation(s) between the remote readings and actual flow meter conditions derived from the data, and any supporting engineering calculations in the monitoring plan. You must maintain all of this information in a format suitable for auditing and inspection.

(D) You must use the mathematical correlation(s) derived from the demonstration described in (c)(ii)(A) of this subsection to convert the remote temperature or the total pressure readings, or both, to the actual temperature or total pressure at the flow meter, or both, on a daily basis. You shall then use the actual temperature and total pressure values to correct the measured flow rates to standard conditions.

(E) You shall periodically check the correlation(s) between the remote and actual readings (at least once a year), and make any necessary adjustments to the mathematical relationship(s).

(d) Fuel billing meters are exempted from the calibration requirements of this section and from the monitoring plan and recordkeeping provisions of subsections (6)(e)(i)(C) and (g) of this section, provided that the fuel supplier and any unit combusting the fuel do not have any common owners and are not owned by subsidiaries or affiliates of the same company. Meters used exclusively to measure the flow rates of fuels that are used for unit startup or ignition are also exempted from the calibration requirements of this section.

(e) For a flow meter that has been previously calibrated in accordance with (a) of this subsection, an additional calibration is not required by the date specified in (a) of this subsection if, as of that date, the previous calibration is still active (i.e., the device is not yet due for recalibration because the time interval between successive calibrations has not elapsed). In this case, the deadline for the successive calibrations of the flow meter shall be set according to one of the following: You may use either the manufacturer's recommended calibration schedule or you may use the industry consensus calibration schedule.

(f) For units and processes that operate continuously with infrequent outages, it may not be possible to meet the deadline established in (a) of this subsection for the initial calibration of a flow meter or other measurement device without disrupting normal process operation. In such cases, the owner or operator may postpone the initial calibration until the next scheduled maintenance outage. The best available information from company records may be used in the interim. The subsequent required recalibrations of the flow meters may be similarly postponed. Such postponements

shall be documented in the monitoring plan that is required under subsection (6)(e) of this section.

(g) If the results of an initial calibration or a recalibration fail to meet the required accuracy specification, data from the flow meter shall be considered invalid, beginning with the hour of the failed calibration and continuing until a successful calibration is completed. You shall follow the missing data provisions provided in the relevant missing data sections during the period of data invalidation.

(9) **Measurement device installation.** 40 C.F.R. Part 98.3(j) and 40 C.F.R. Part 98.3(d) as effective on or proposed by August 1, 2010 are adopted by reference as modified in WAC 173-441-120(2).

NEW SECTION

WAC 173-441-060 Authorization and responsibilities of the designated representative. (1) **General.** Except as provided under subsection (6) of this section, each facility, and each supplier, that is subject to this chapter, shall have one and only one designated representative, who shall be responsible for certifying, signing, and submitting GHG emissions reports and any other submissions for such facility and supplier respectively to ecology under this chapter. If the facility is required to submit an emission report to EPA under 40 C.F.R. Part 98, the designated representative responsible for certifying, signing, and submitting the GHG emissions reports and all such other emissions reports to EPA shall be the designated representative responsible for certifying, signing, and submitting GHG emissions reports to ecology under this chapter.

(2) **Authorization of a designated representative.** The designated representative of the facility or supplier shall be an individual selected by an agreement binding on the owners and operators of such facility or supplier and shall act in accordance with the certification statement in subsection (9)(d)(iv) of this section.

(3) **Responsibility of the designated representative.** Upon receipt by ecology of a complete certificate of representation under this section for a facility or supplier, the designated representative identified in such certificate of representation shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of such facility or supplier in all matters pertaining to this chapter, notwithstanding any agreement between the designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the designated representative by ecology, pollution control hearings board, or a court.

(4) **Timing.** No GHG emissions report or other submissions under this chapter for a facility or supplier will be accepted until ecology has received a complete certificate of representation under this section for a designated representative of the facility or supplier. Such certificate of representation shall be submitted at least sixty days before the deadline for submission of the facility's or supplier's initial emission report under this chapter.

(5) **Certification of the GHG emissions report.** Each GHG emission report and any other submission under this chapter for a facility or supplier shall be certified, signed, and

submitted by the designated representative or any alternate designated representative of the facility or supplier in accordance with this section and 40 C.F.R. Part 3.10 as published on July 1, 2009.

(a) Each such submission shall include the following certification statement signed by the designated representative or any alternate designated representative: "I am authorized to make this submission on behalf of the owners and operators of the facility or supplier, as applicable, for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(b) Ecology will accept a GHG emission report or other submission for a facility or supplier under this chapter only if the submission is certified, signed, and submitted in accordance with this section.

(6) **Alternate designated representative.** A certificate of representation under this section for a facility or supplier may designate one alternate designated representative, who shall be an individual selected by an agreement binding on the owners and operators, and may act on behalf of the designated representative, of such facility or supplier. The agreement by which the alternate designated representative is selected shall include a procedure for authorizing the alternate designated representative to act in lieu of the designated representative.

(a) Upon receipt by ecology of a complete certificate of representation under this section for a facility or supplier identifying an alternate designated representative:

(i) The alternate designated representative may act on behalf of the designated representative for such facility or supplier.

(ii) Any representation, action, inaction, or submission by the alternate designated representative shall be deemed to be a representation, action, inaction, or submission by the designated representative.

(b) Except in this section, whenever the term "designated representative" is used in this chapter, the term shall be construed to include the designated representative or any alternate designated representative.

(7) **Changing a designated representative or alternate designated representative.** The designated representative or alternate designated representative identified in a complete certificate of representation under this section for a facility or supplier received by ecology may be changed at any time upon receipt by ecology of another later signed, complete certificate of representation under this section for the facility or supplier. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous designated representative or the previous alternate designated representative of the facility or supplier before the time and date when ecology receives such later signed certificate of

representation shall be binding on the new designated representative and the owners and operators of the facility or supplier.

(8) **Changes in owners and operators.** In the event an owner or operator of the facility or supplier is not included in the list of owners and operators in the certificate of representation under this section for the facility or supplier, such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the designated representative and any alternate designated representative of the facility or supplier, as if the owner or operator were included in such list. Within ninety days after any change in the owners and operators of the facility or supplier (including the addition of a new owner or operator), the designated representative or any alternate designated representative shall submit a certificate of representation that is complete under this section except that such list shall be amended to reflect the change. If the designated representative or alternate designated representative determines at any time that an owner or operator of the facility or supplier is not included in such list and such exclusion is not the result of a change in the owners and operators, the designated representative or any alternate designated representative shall submit, within ninety days of making such determination, a certificate of representation that is complete under this section except that such list shall be amended to include such owner or operator.

(9) **Certificate of representation.** A certificate of representation shall be complete if it includes the following elements in a format prescribed by ecology in accordance with this section:

(a) Identification of the facility or supplier for which the certificate of representation is submitted.

(b) The name, organization name (company affiliation-employer), address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the designated representative and any alternate designated representative.

(c) A list of the owners and operators of the facility or supplier identified in (a) of this subsection, provided that, if the list includes the operators of the facility or supplier and the owners with control of the facility or supplier, the failure to include any other owners shall not make the certificate of representation incomplete.

(d) The following certification statements by the designated representative and any alternate designated representative:

(i) "I certify that I was selected as the designated representative or alternate designated representative, as applicable, by an agreement binding on the owners and operators of the facility or binding on the supplier, as applicable."

(ii) "I certify that I have all the necessary authority to carry out my duties and responsibilities under chapter 173-441 WAC on behalf of the owners and operators of the facility and on behalf of suppliers, as applicable, and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

(iii) "I certify that the supplier or owners and operators of the facility, as applicable, shall be bound by any order issued

to me by ecology, the pollution control hearings board, or a court regarding the facility or supplier."

(iv) "If there are multiple owners and operators of the facility or multiple suppliers, as applicable, I certify that I have given a written notice of my selection as the 'designated representative' or 'alternate designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the facility and each supplier."

(e) The signature of the designated representative and any alternate designated representative and the dates signed.

(10) **Documents of agreement.** Unless otherwise required by ecology, documents of agreement referred to in the certificate of representation shall not be submitted to ecology. Ecology shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(11) **Binding nature of the certificate of representation.** Once a complete certificate of representation under this section for a facility or supplier has been received, ecology will rely on the certificate of representation unless and until a later signed, complete certificate of representation under this section for the facility or supplier is received by ecology.

(12) **Objections concerning a designated representative.**

(a) Except as provided in subsection (7) of this section, no objection or other communication submitted to ecology concerning the authorization, or any representation, action, inaction, or submission, of the designated representative or alternate designated representative shall affect any representation, action, inaction, or submission of the designated representative or alternate designated representative, or the finality of any decision or order by ecology under this chapter.

(b) Ecology will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any designated representative or alternate designated representative.

(13) **Delegation by designated representative and alternate designated representative.**

(a) A designated representative or an alternate designated representative may delegate his or her own authority, to one or more individuals, to submit an electronic submission to ecology provided for or required under this chapter, except for a submission under this subsection.

(b) In order to delegate his or her own authority, to one or more individuals, to submit an electronic submission to ecology in accordance with (a) of this subsection, the designated representative or alternate designated representative must submit electronically to ecology a notice of delegation, in a format prescribed by ecology, that includes the following elements:

(i) The name, organization name (company affiliation-employer), address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of such designated representative or alternate designated representative.

(ii) The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of each such individual (referred to as an "agent").

(iii) For each such individual, a list of the type or types of electronic submissions under (a) of this subsection for which authority is delegated to him or her.

(iv) For each type of electronic submission listed in accordance with subsection (13)(b)(iii) of this section, the facility or supplier for which the electronic submission may be made.

(v) The following certification statements by such designated representative or alternate designated representative:

(A) "I agree that any electronic submission to ecology that is by an agent identified in this notice of delegation and of a type listed, and for a facility or supplier designated, for such agent in this notice of delegation and that is made when I am a designated representative or alternate designated representative, as applicable, and before this notice of delegation is superseded by another notice of delegation under WAC 173-441-060 (13)(c) shall be deemed to be an electronic submission certified, signed, and submitted by me."

(B) "Until this notice of delegation is superseded by a later signed notice of delegation under WAC 173-441-060 (13)(c), I agree to maintain an e-mail account and to notify ecology immediately of any change in my e-mail address unless all delegation of authority by me under WAC 173-441-060(13) is terminated."

(vi) The signature of such designated representative or alternate designated representative and the date signed.

(c) A notice of delegation submitted in accordance with (b) of this subsection shall be effective, with regard to the designated representative or alternate designated representative identified in such notice, upon receipt of such notice by ecology and until receipt by ecology of another such notice that was signed later by such designated representative or alternate designated representative, as applicable. The later signed notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(d) Any electronic submission covered by the certification in (b)(v)(A) of this subsection and made in accordance with a notice of delegation effective under (c) of this subsection shall be deemed to be an electronic submission certified, signed, and submitted by the designated representative or alternate designated representative submitting such notice of delegation.

NEW SECTION

WAC 173-441-070 Report submittal. Each GHG report and certificate of representation for a facility or supplier must be submitted electronically in accordance with the requirements of WAC 173-441-050 and 173-441-060 and in a format specified by ecology.

NEW SECTION

WAC 173-441-080 Standardized methods and conversion factors incorporated by reference. (1) The materials incorporated by reference by EPA in 40 C.F.R. Part 98.7, as effective on or proposed by August 1, 2010, are incorporated by reference in this chapter for use in the sections of this chapter that correspond to the sections of 40 C.F.R. Part 98 referenced here.

(2) Table A-2 of this section provides a conversion table for some of the common units of measure used in this chapter.

**Table A-2:
Units of Measure Conversions**

To convert from	To	Multiply by
Kilograms (kg)	Pounds (lbs)	2.20462
Pounds (lbs)	Kilograms (kg)	0.45359
Pounds (lbs)	Metric tons	4.53592 x 10 ⁻⁴
Short tons	Pounds (lbs)	2,000
Short tons	Metric tons	0.90718
Metric tons	Short tons	1.10231
Metric tons	Kilograms (kg)	1,000
Cubic meters (m ³)	Cubic feet (ft ³)	35.31467
Cubic feet (ft ³)	Cubic meters (m ³)	0.028317
Gallons (liquid, US)	Liters (l)	3.78541
Liters (l)	Gallons (liquid, US)	0.26417
Barrels of liquid fuel (bbl)	Cubic meters (m ³)	0.15891
Cubic meters (m ³)	Barrels of liquid fuel (bbl)	6.289
Barrels of liquid fuel (bbl)	Gallons (liquid, US)	42
Gallons (liquid, US)	Barrels of liquid fuel (bbl)	0.023810
Gallons (liquid, US)	Cubic meters (m ³)	0.0037854
Liters (l)	Cubic meters (m ³)	0.001
Feet (ft)	Meters (m)	0.3048
Meters (m)	Feet (ft)	3.28084

To convert from	To	Multiply by
Miles (mi)	Kilometers (km)	1.60934
Kilometers (km)	Miles (mi)	0.62137
Square feet (ft ²)	Acres	2.29568 x 10 ⁻⁵
Square meters (m ²)	Acres	2.47105 x 10 ⁻⁴
Square miles (mi ²)	Square kilometers (km ²)	2.58999
Degrees Celsius (°C)	Degrees Fahrenheit (°F)	°C = (5/9) x (°F - 32)
Degrees Fahrenheit (°F)	Degrees Celsius (°C)	°F = (9/5) x (°C + 32)
Degrees Celsius (°C)	Kelvin (K)	K = °C + 273.15
Kelvin (K)	Degrees Rankine (°R)	1.8
Joules	Btu	9.47817 x 10 ⁻⁴
Btu	MMBtu	1 x 10 ⁻⁶
Pascals (Pa)	Inches of mercury (in Hg)	2.95334 x 10 ⁻⁴
Inches of mercury (in Hg)	Pounds per square inch (psi)	0.49110
Pounds per square inch (psi)	Inches of mercury (in Hg)	2.03625

NEW SECTION

WAC 173-441-090 Compliance and enforcement. (1) **Violations.** Any violation of any requirement of this chapter shall be a violation of chapter 70.94 RCW and subject to enforcement as provided in that chapter. A violation includes but is not limited to failure to report GHG emissions by the reporting deadline, failure to report accurately, failure to collect data needed to calculate GHG emissions, failure to continuously monitor and test as required, failure to retain records needed to verify the amount of GHG emissions, failure to calculate GHG emissions following the methodologies specified in this chapter, and failure to pay the required reporting fee. Each day of a violation constitutes a separate violation.

(2) **Enforcement responsibility.** Ecology shall enforce the requirements of this chapter unless ecology approves a local air authority's request to enforce the requirements for persons operating within the authority's jurisdiction.

NEW SECTION

WAC 173-441-100 Addresses. All requests, notifications, and communications to ecology pursuant to this chapter, other than submittal of the annual GHG report, shall be submitted to the following address: Greenhouse Gas Report, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

NEW SECTION

WAC 173-441-110 Fees. (1) **Fee determination.** All persons required to report or voluntarily reporting under WAC 173-441-030 must pay a reporting fee for each year they submit a report to ecology. Ecology must establish reporting fees based on workload using the process outlined below. The fees must be sufficient to cover ecology's costs to administer the GHG emissions reporting program.

(2) **Fee eligible activities.** All costs of activities associated with administering this reporting program, as described in RCW 70.94.151(2), are fee eligible.

(3) **Workload analysis and budget development.** Each biennium, ecology must conduct a workload analysis and develop a budget based on the process outlined below:

(a) Ecology must conduct a workload analysis projecting resource requirements for administering the reporting program, organized by categories of fee eligible activities, for the purpose of preparing the budget. Ecology must prepare the workload analysis for the two-year period corresponding to each biennium. The workload analysis must identify the fee eligible administrative activities related to the reporting program that it will perform during the biennium and must estimate the resources required to perform these activities.

(b) Ecology must prepare a budget for administering the reporting program for the two-year period corresponding to each biennium. Ecology must base the budget on the resource requirements identified in the workload analysis for the biennium and must take into account the reporting program account balance at the start of the biennium.

(4) **Allocation methodology.** Ecology must allocate the reporting program budget among the persons required to report or voluntarily reporting under WAC 173-441-030 according to the following components:

(a) The reporting fee for an owner or operator of a facility required to report or voluntarily reporting under WAC 173-441-030 is calculated by the equal division of seventy-five percent of the budget amount by the total number of facilities reporting GHG emissions under this chapter in a given calendar year. A person required to report or voluntarily reporting multiple facilities under WAC 173-441-030 must pay a fee for each facility reported.

(b) The reporting fee for a supplier required to report or voluntarily reporting under WAC 173-441-030 is calculated by the equal division of twenty-five percent of the budget amount by the total number of suppliers reporting GHG emissions under this chapter in a given calendar year.

(c) A person required to report or voluntarily reporting under WAC 173-441-030 both as an owner or operator of a facility or facilities and as a supplier must pay a fee for each facility reported and a fee for reporting as a supplier.

(5) **Fee schedule.** Ecology must issue annually a fee schedule reflecting the reporting fee to be paid per facility or supplier. Ecology must base the fee schedule on the budget and workload analysis described above and conducted each biennium. Ecology must publish the fee schedule for the following year on or before October 31st of each year.

(6) **Fee payments.** Fees specified in this section must be paid within thirty days of receipt of ecology's billing statement. All fees collected under this chapter must be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee received after the thirty-day period.

(7) **Dedicated account.** Ecology must deposit all reporting fees they collect in the air pollution control account.

NEW SECTION

WAC 173-441-120 Calculation methods incorporated by reference from 40 C.F.R. Part 98 for facilities. Owners and operators of facilities that are subject to this

chapter must follow the requirements of this chapter and all subparts of 40 C.F.R. Part 98 listed in Table 120-1 of this section. If a conflict exists between a provision in WAC 173-441-050(3) through 173-441-080 and any applicable provision of this section, the requirements of this section shall take precedence.

(1) **Source categories and calculation methods for facilities.** An owner or operator of a facility subject to the requirements of this chapter must report GHG emissions, including GHG emissions from biomass, from all applicable source categories in Washington state listed in Table 120-1 of this section using the methods incorporated by reference in Table 120-1. Table 120-1 and subsection (2) of this section list modifications and exceptions to calculation methods adopted by reference in this section. Owners or operators are not required to report facility GHG emissions unless the emissions are referenced in Table 120-1, even if the source category to which the facility belongs is referenced in another source category that is listed in Table 120-1.

**Table 120-1:
Source Categories and Calculation Methods
Incorporated by Reference from 40 C.F.R. Part 98 for Facilities**

Source Category	40 C.F.R. Part 98 Subpart*	Exceptions to Calculation Method or Applicability Criteria ⁺
General Stationary Fuel Combustion Sources	C	
Electricity Generation	D	
Adipic Acid Production	E	
Aluminum Production	F	
Ammonia Manufacturing	G	
Cement Production	H	
Electronics Manufacturing	I**	In § 98.91, replace "To calculate GHG emissions for comparison to the 25,000 metric ton CO ₂ e per year emission threshold in paragraph § 98.2 (a)(2)" with "To calculate GHG emissions for comparison to the emission threshold in WAC 173-441-030(1)."
Ferroalloy Production	K	
Fluorinated Gas Production	L**	In § 98.121, replace "To calculate GHG emissions for comparison to the 25,000 metric ton CO ₂ e per year emission threshold in § 98.2 (a)(2)" with "To calculate GHG emissions for comparison to the emission threshold in WAC 173-441-030(1)."
Glass Production	N	
HCFC-22 Production and HFC-23 Destruction	O	
Hydrogen Production	P	
Iron and Steel Production	Q	
Lead Production	R	
Lime Manufacturing	S	
Magnesium Production	T	
Miscellaneous Uses of Carbonate	U	
Nitric Acid Production	V	

Source Category	40 C.F.R. Part 98 Subpart*	Exceptions to Calculation Method or Applicability Criteria ⁺
Petroleum and Natural Gas Systems	W**	
Petrochemical Production	X	
Petroleum Refineries	Y	
Phosphoric Acid Production	Z	
Pulp and Paper Manufacturing	AA	
Silicon Carbide Production	BB	
Soda Ash Manufacturing	CC	
Use of Electric Transmission and Distribution Equipment	DD**	§ 98.301 should read: "You must report GHG emissions under this subpart if your facility contains any use of electric transmission and distribution equipment process and the facility meets the requirements of WAC 173-441-030(1)."
Titanium Dioxide Production	EE	
Underground Coal Mines	FF	
Zinc Production	GG	
Municipal Solid Waste Landfills	HH	CO ₂ from combustion of landfill gas must also be included in calculating emissions for reporting and determining if the reporting threshold is met.
Industrial Wastewater Treatment	II	CO ₂ from combustion of wastewater biogas must also be included in calculating emissions for reporting and determining if the reporting threshold is met.
Manure Management	JJ	See subsection (2)(e) of this section.
Carbon Dioxide Injection and Geologic Sequestration	RR**	
Manufacture of Electric Transmission and Distribution Equipment	SS**	
Industrial Waste Landfills	TT	CO ₂ from combustion of landfill gas must also be included in calculating emissions for reporting and determining if the reporting threshold is met.

* Unless otherwise noted, all calculation methods are from 40 C.F.R. Part 98, as effective on August 1, 2010.

** From 40 C.F.R. Part 98, as proposed on April 12, 2010.

+ Modifications and exceptions in subsection (2) of this section and WAC 173-441-173-010 through 173-441-050(2) also apply.

(2) Modifications and exceptions to calculation methods adopted by reference. Except as otherwise specifically provided:

(a) Wherever the term "administrator" is used in the rules incorporated by reference in this chapter, the term "director" shall be substituted.

(b) Wherever the term "EPA" is used in the rules incorporated by reference in this chapter, the term "ecology" shall be substituted.

(c) Wherever the term "United States" is used in the rules incorporated by reference in this chapter, the term "Washington state" shall be substituted.

(d) Wherever a calculation method adopted by reference in Table 120-1 of this section refers to another subpart or paragraph of 40 C.F.R. Part 98:

(i) If Table 120-2 of this section lists the reference, then replace the reference with the corresponding reference to this chapter as specified in Table 120-2.

(ii) If the reference is to a subpart or subsection of a reference listed in Table 120-2 of this section, then replace the reference with the appropriate subsection of the corresponding reference to this chapter as specified in Table 120-2.

(iii) If the reference is to a subpart or paragraph of 40 C.F.R. Part 98 Subparts C through TT incorporated by reference in Table 120-1, then use the existing reference except as modified by this chapter.

(e) For manure management, use the following subsections instead of the corresponding subsections in 40 C.F.R. Part 98.360 as effective on August 1, 2010.

(i) 40 C.F.R. Part 98.360(a): This source category consists of livestock facilities with manure management systems.

(A) § 98.360 (a)(1) is not adopted by reference.

(B) § 98.360 (a)(2) is not adopted by reference.

(ii) 40 C.F.R. Part 98.360(b): A manure management system (MMS) is a system that stabilizes and/or stores livestock manure, litter, or manure wastewater in one or more of

the following system components: Uncovered anaerobic lagoons, liquid/slurry systems with and without crust covers (including, but not limited to, ponds and tanks), storage pits, digesters, solid manure storage, dry lots (including feedlots), high-rise houses for poultry production (poultry without litter), poultry production with litter, deep bedding systems for cattle and swine, manure composting, and aerobic treatment.

(iii) 40 C.F.R. Part 98.360(c): This source category does not include system components at a livestock facility that are unrelated to the stabilization and/or storage of manure such as daily spread or pasture/range/paddock systems or land application activities or any method of manure utilization that is not listed in § 98.360(b) as modified in WAC 173-441-120 (2)(e)(ii).

(iv) 40 C.F.R. Part 98.360(d): This source category does not include manure management activities located off-site from a livestock facility or off-site manure composting operations.

(v) 40 C.F.R. Part 98.361: Livestock facilities must report GHG emissions under this subpart if the facility contains a manure management system as defined in 98.360(b)

as modified in WAC 173-441-120 (2)(e)(ii), and meets the requirements of WAC 173-441-030(1).

(vi) 40 C.F.R. Part 98.362 (b) and (c) are not adopted by reference.

(vii) 40 C.F.R. Part 98.362(a), 40 C.F.R. Part 98.363 through 40 C.F.R. Part 98.368, Equations JJ-2 through JJ-15, and Tables JJ-2 through JJ-7 as effective on August 1, 2010, remain unchanged unless otherwise modified in this chapter.

(viii) CO₂ from combustion of gas from manure management must also be included in calculating emissions for reporting and determining if the reporting threshold is met.

(f) Use the following method to obtain specific version or date references for any reference in 40 C.F.R. Part 98 that refers to any document not contained in 40 C.F.R. Part 98:

(i) If the reference in 40 C.F.R. Part 98 includes a specific version or date reference, then use the version or date as specified in 40 C.F.R. Part 98.

(ii) If the reference in 40 C.F.R. Part 98 does not include a specific version or date reference, then use the version of the referenced document as available on the date of adoption of this chapter.

**Table 120-2:
Corresponding References in 40 C.F.R. Part 98 and
Chapter 173-441 WAC**

Reference in 40 C.F.R. Part 98	Corresponding Reference in Chapter 173-441 WAC
40 C.F.R. Part 98 or "part"	Chapter 173-441 WAC
Subpart A	WAC 173-441-010 through 173-441-100
§ 98.1	WAC 173-441-010
§ 98.2	WAC 173-441-030
§ 98.2(a)	WAC 173-441-030(1)
§ 98.2 (a)(1)	WAC 173-441-030(1)
§ 98.2 (a)(2)	WAC 173-441-030(1)
§ 98.2 (a)(3)	WAC 173-441-030(1)
§ 98.2(i)	WAC 173-441-030(5)
§ 98.3	WAC 173-441-050
§ 98.3(c)	WAC 173-441-050(3)
§ 98.3(g)	WAC 173-441-050(6)
§ 98.3 (g)(5)	WAC 173-441-050 (6)(e)
§ 98.3(i)	WAC 173-441-050(8)
§ 98.3 (i)(6)	WAC 173-441-050 (8)(f)
§ 98.4	WAC 173-441-060
§ 98.5	WAC 173-441-070
§ 98.6	WAC 173-441-020
§ 98.7	WAC 173-441-080
§ 98.8	WAC 173-441-090
§ 98.9	WAC 173-441-100
Table A-1 to Subpart A of Part 98—Global Warming Potentials	Table A-1 of WAC 173-441-040
Table A-2 to Subpart A of Part 98—Units of Measure Conversions	Table A-2 of WAC 173-441-080

(3) **Calculation methods for voluntary reporting.** GHG emissions reported voluntarily under WAC 173-441-030(4) must be calculated using the following methods:

(a) If the GHG emissions have calculation methods specified in Table 120-1 of this section, use the methods specified in Table 120-1.

(b) If the GHG emissions have calculation methods specified in WAC 173-441-130, use the methods specified in WAC 173-441-130.

(c) For all GHG emissions from facilities not covered in Table 120-1 of this section or persons supplying any product other than those listed in WAC 173-441-130, contact ecology for an appropriate calculation method no later than one hundred eighty days prior to the emissions report deadline established in WAC 173-441-050(2) or submit a petition for alternative calculation methods according to the requirements of WAC 173-441-140.

(4) **Alternative calculation methods approved by petition.** An owner or operator may petition ecology to use calculation methods other than those specified in Table 120-1 of this section to calculate its facility GHG emissions. Such alternative calculation methods must be approved by ecology prior to reporting and must meet the requirements of WAC 173-441-140.

NEW SECTION

WAC 173-441-130 Calculation methods for suppliers. Suppliers of liquid motor vehicle fuel, special fuel, or aircraft fuel subject to the requirements of this chapter must calculate the CO₂ emissions that would result from the complete combustion or oxidation of each fuel that is reported to DOL as sold in Washington state using the methods in this section.

(1) **Applicable fuels.** Suppliers are responsible for calculating CO₂ emissions from the following applicable fossil fuels and biomass derived fuels:

(a) All taxed liquid motor vehicle fuel that the supplier is required to report to DOL as part of the supplier's filed periodic tax reports of motor vehicle fuel sales under chapter 308-72 WAC.

(b) All taxed special fuel that the supplier is required to report to DOL as part of the supplier's filed periodic tax reports of special fuel sales under chapter 308-77 WAC.

(c) All taxed and untaxed aircraft fuel supplied to end users that the supplier is required to report to DOL as part of the supplier's filed periodic tax reports of aircraft fuel under chapter 308-78 WAC.

(2) Calculating CO₂ emissions separately for each fuel type. CO₂ emissions must be calculated separately for each applicable fuel type using Equation 130-1 of this section. Use Equation 130-2 of this section to separate each blended fuel into pure fuel types prior to calculating emissions using Equation 130-1.

$$CO_{2i} = Fuel\ Type_i \times EF_i \quad (Eq. 130 - 1)$$

Where:

- CO_{2i} = Annual CO₂ emissions that would result from the complete combustion or oxidation of each fuel type "i" (metric tons)
- Fuel Type_i = Annual volume of fuel type "i" supplied by the supplier (gallons).
- EF_i = Fuel type-specific CO₂ emission factor (metric tons CO₂ per gallon) found in Table 130-1 of this section.

$$Fuel\ Type_i = Fuel_i \times \%Vol_i \quad (Eq. 130 - 2)$$

Where:

- Fuel Type_i = Annual volume of fuel type "i" supplied by the supplier (gallons).
- Fuel_i = Annual volume of blended fuel "i" supplied by the supplier (gallons).
- %Vol_i = Percent volume of product "i" that is fuel type_i.

(3) **Calculating total CO₂ emissions.** A supplier must calculate total annual CO₂ emissions from all fuels using Equation 130-3 of this section.

$$CO_{2x} = \sum (CO_{2i}) \quad (Eq. 130 - 3)$$

Where:

- CO_{2x} = Annual CO₂ emissions that would result from the complete combustion or oxidation of all fuels (metric tons).
- CO_{2i} = Annual CO₂ emissions that would result from the complete combustion or oxidation of each fuel type "i" (gallons).

(4) **Monitoring and QA/QC requirements.** Comply with all monitoring and QA/QC requirements under chapters 308-72, 308-77, and 308-78 WAC.

(5) **Data recordkeeping requirements.** In addition to the annual GHG report required by WAC 173-441-050(6)(c), the following records must be retained by the supplier in accordance with the requirements established in WAC 173-441-050(6):

(a) For each fuel type listed in Table 130-1 of this section, the annual quantity of applicable fuel in gallons of pure fuel supplied in Washington state.

(b) The CO₂ emissions in metric tons that would result from the complete combustion or oxidation of each fuel type for which subsection (5)(a) of this section requires records to be retained, calculated according to subsection (2) of this section.

(c) The sum of biogenic CO₂ emissions that would result from the complete combustion oxidation of all supplied fuels, calculated according to subsection (3) of this section.

(d) The sum of nonbiogenic and biogenic CO₂ emissions that would result from the complete combustion oxidation of all supplied fuels, calculated according to subsection (3) of this section.

(e) All records required under chapters 308-72, 308-77, and 308-78 WAC in the format required by DOL.

**Table 130-1:
Emission Factors for Applicable Liquid Motor Vehicle Fuels, Special Fuels, and Aircraft Fuels**

Fuel Type (pure fuel)	Emission Factor (metric tons CO ₂ per gallon)
Gasoline	0.008960
Ethanol	0.005767
Diesel	0.010230
Biodiesel	0.009421
Propane	0.005593
Natural gas	0.000055*
Kerosene	0.010150
Jet fuel	0.009750
Aviation gasoline	0.008310

Contact ecology to obtain an emission factor for any applicable fuel type not listed in this table.

*In units of metric tons CO₂ per scf. When using Equation 130-1 of this section, enter fuel in units of scf.

NEW SECTION

WAC 173-441-140 Petitioning ecology to use an alternative calculation method to calculate greenhouse gas emissions. An owner or operator may petition ecology to use calculation methods other than those specified in WAC 173-441-120 to calculate GHG emissions. Alternative calculation methodologies are not available for GHG emissions covered by a source category adopted by reference in WAC 173-441-130. The following requirements apply to the submission, review, and approval or denial of a petition:

(1) **Petition submittal.** An owner or operator must submit a petition that meets the following conditions before ecology may review the petition and issue a determination.

(a) An owner or operator must submit a complete petition no later than one hundred eighty days prior to the emissions report deadline established in WAC 173-441-050(2). Such petition must include sufficient information, as described in (b) of this subsection, for ecology to determine whether the proposed alternative calculation method will provide emissions data sufficient to meet the reporting requirements of RCW 70.94.151. Ecology will notify the owner or operator within thirty days of receipt of a petition of any additional information ecology requires to approve the proposed calculation methods in the petition. If a petition is under review by ecology at the time an annual emissions report is due under WAC 173-441-050(2), the owner or operator must submit the emissions report using the calculation methods approved under this chapter at the time of submittal of the emissions report.

(b) The petition must include, at a minimum, the following information:

(i) Identifying information as specified in WAC 173-441-060 (9)(b) and 173-441-060 (13)(b)(ii) of the designated representative and any agent submitting a petition;

(ii) Identifying information as specified in WAC 173-441-050 (3)(a) of the facility or facilities where the owner or operator proposes to use the alternative calculation method;

(iii) A clear and complete reference to the subparts or sections in EPA's mandatory greenhouse gas reporting regulation that contain the alternative calculation method and the date that EPA adopted the subparts or sections;

(iv) The source categories that will use the alternative calculation method;

(v) The date that the owner or operator intends to start using the alternative calculation method;

(vi) Any other supporting data or information as requested by ecology as described in subsection (2) of this section; and

(vii) The designated representative must sign and date the petition.

(2) **Ecology review of the petition.** Ecology must approve the alternative calculation method before the owner or operator may use it to report GHG emissions. Ecology will issue a determination within sixty days of receiving a complete petition. The alternative calculation method must meet the following conditions:

(a) For GHG emissions that meet the requirements of WAC 173-441-030(1) for mandatory reporting, the alternative calculation method must be a method adopted by the United States Environmental Protection Agency in its mandatory greenhouse gas reporting regulation. The alternative calculation method must be more recent than the method for the given source category adopted by reference in WAC 173-441-120.

(b) For GHG emissions reported voluntarily under WAC 173-441-030(4), ecology must apply the following criteria when evaluating an alternative calculation method:

(i) If the GHG emissions are covered by a source category adopted by reference in WAC 173-441-120, then the requirements of (a) of this subsection apply.

(ii) If the GHG emissions are not covered by a source category adopted by reference in WAC 173-441-120 or 173-441-130, then ecology must consider whether the methods meet the following criteria:

(A) The alternative calculation method is established by a nationally or internationally recognized body in the field of GHG emissions reporting such as:

- (I) Ecology;
- (II) EPA;
- (III) The International Panel on Climate Change;
- (IV) The Western Climate Initiative;
- (V) The Climate Registry;

(B) If an alternative calculation method is not available from sources listed in (b)(ii)(A) of this subsection, then ecology may accept a method from an industry or trade association or devised by the owner or operator if ecology determines the alternative calculation method is consistent with the requirements established under RCW 70.94.151.

(c) For all source categories, including those covered in (a) and (b) of this subsection, the alternative calculation method must be consistent in content and scope with the requirements established under RCW 70.94.151. In the event that a proposed alternative calculation method does not include all required GHG emissions, the owner or operator must use the calculation methods specified in subsection (3) of this section to calculate those emissions.

(3) **Calculating emissions not included in alternative calculation method.** An owner or operator must report all source categories of GHG emissions for which reporting is required under RCW 70.94.151 and for which calculation methods have been established in WAC 173-441-120 or 173-441-130. If an approved alternative calculation method does not include calculation methods for all required source categories of emissions, then the owner or operator must use a method described in WAC 173-441-120, 173-441-130, or approved for the owner or operator by ecology in a separate petition to calculate and report those emissions.

(4) **Appeal of determination.** An approval or denial issued by ecology in response to a written petition filed under this subsection is a determination appealable to the pollution control hearings board per RCW 43.21B.110 (1)(h).

NEW SECTION

WAC 173-441-150 Confidentiality. (1) Emissions data submitted to ecology under this chapter are public information and must not be designated as confidential.

(2) Any proprietary or confidential information exempt from disclosure when reported to DOL that ecology obtains directly from DOL remains exempt from disclosure.

(3) Information considered confidential by EPA is not considered confidential by ecology unless it also meets the conditions established in subsection (2) or (4) of this section.

(4) Any person submitting information to ecology under this chapter may request that ecology keep information that is not emissions data confidential as proprietary information under RCW 70.94.205 or because it is otherwise exempt from public disclosure under the Washington Public Records Act (chapter 42.56 RCW). All such requests for confidentiality must meet the requirements of RCW 70.94.205.

(5) Ecology's determinations of the verification status of each report are public information. All confidential data used in the verification process will remain confidential.

NEW SECTION

WAC 173-441-160 Ecology to share information with local air authorities and with the energy facility site evaluation council. (1) Ecology must share any reporting information reported to it with the local air authority in which the person reporting under these rules operates.

(2) Ecology must share with the energy facility site evaluation council any information reported to ecology under these rules by facilities permitted by the council, including notice of a facility that has failed to report as required.

NEW SECTION

WAC 173-441-170 Severability. If any provision of the regulation or its application to any person or circumstance is held invalid, the remainder of the regulation or application of the provision to other persons or circumstances is not affected.

**WSR 10-18-064
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed August 30, 2010, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-03-033.

Title of Rule and Other Identifying Information: Chapter 170-290 WAC, Working connections and seasonal child care programs, amending WAC 170-290-0005, 170-290-0075, 170-290-0085, 170-290-3520, and 170-290-3640.

Hearing Location(s): 1. Southwest Washington Educational Services District 112, 2500 N.E. 65th Avenue, Vancouver, 98661-6812, on Thursday, October 7, 2010, 6:30 p.m. to 9:00 p.m.

You may join this hearing at any time from 6:30 to 9:00 p.m. Those who cannot join this hearing in person may participate live at the following locations by video conference at Educational Services District 123, 3918 West Court Street, Blue Mountain Room, Pasco, 99301; and Puget Sound Educational Services District 121, 800 Oakesdale Avenue S.W., Puyallup Room, Renton, 98057-5221.

2. Yakima Valley Community College, Parker Room, South 16th Avenue and Nob Hill Boulevard, Yakima, WA 98902, on Saturday, October 9, 2010, 10:00 a.m. to 12:30 p.m.

Everyone who comments on the proposed rules, either in writing or at a public hearing, will receive the department's combined written response, called a concise explanatory statement. This statement is also available to anyone who requests it, by contacting the department of early learning (DEL) rules coordinator at the address above, or by e-mailing Rules@del.wa.gov.

Date of Intended Adoption: After October 11, 2010.

Submit Written Comments to: DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970, DEL on-line comment web site <https://apps.del.wa.gov/PolicyProposalComment/Detail.aspx>, e-mail Rules@del.wa.gov, fax (360) 725-4939, by 11:59 p.m., October 10, 2010.

Assistance for Persons with Disabilities: Contact Andy Fernando, rules coordinator, by October 1, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is revising rules regarding the family income limit to be eligible for state-paid child care subsidy assistance under the working connections child care (WCCC) and seasonal child care (SCC) programs. The "countable" income limit is being reduced to one hundred seventy-five percent of the federal poverty guideline (FPG). The current limit is two hundred

percent of the FPG. This means families with countable income above one hundred seventy-five percent up to two hundred percent of FPG will no longer be eligible for the WCCC or SCC subsidy programs.

Reasons Supporting Proposal: On August 12, 2010, Governor Gregoire announced various measures that Washington state must take to help meet an anticipated shortfall of more than \$51 million in the "WorkFirst" fiscal 2011 budget period ending June 30, 2011. Several state agencies have been directed to reduce WorkFirst expenditures. To save an estimated \$14,780,000 of the total shortfall, DEL has been directed to change the countable income limit for WCCC and SCC eligibility to one hundred seventy-five percent of the FPGs. At one hundred seventy-five percent of the FPG, a family of three would need [to] have countable income of less than \$2,670 per month to qualify for WCCC or SCC.

Currently, more than thirty-five thousand families in Washington state receive WCCC or SCC subsidy assistance each month. Under the proposed rules, about two thousand five hundred families may lose WCCC or SCC benefits. The proposed change would be phased in as each family receiving WCCC or SCC reaches the end [of] their current eligibility period. When the family reapplies for benefits, WCCC or SCC eligibility will be based on their current countable family income.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070; chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Under section 501 (uncodified), chapter 265, Laws of 2006, DEL and DSHS jointly operate the WCCC program. DEL is responsible for WCCC policy making and adopting rules for the program. DSHS staff accept WCCC applications, determine family eligibility, and process payments to child care providers who care for children who receive WCCC subsidized care.

DEL implements the SCC program, in part through contracts with local community organizations throughout the state. These contractors accept SCC applications from families and determine each family's SCC eligibility using the rules in Part III of chapter 170-290 WAC.

Both the WCCC and SCC programs help pay for child care for eligible families while the parents work or attend training, education or other approved activities.

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Mark Rosen, DEL, Lacey, Washington, (360) 725-4665; Implementation: DSHS field offices and call centers and seasonal child care contractors, statewide; and Enforcement: DSHS field offices, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are likely [to] result in reduced income for some child care providers who provide care for children of families who would lose WCCC or SCC eligibility subsidies under the proposed rules. However, the proposed rules do not impose a compliance requirement on small child care businesses nor any

reporting or record-keeping requirement. Preparation of a small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not listed among the state agencies required to comply with RCW 34.05.328.

August 25, 2010

Elizabeth M. Hyde

Director

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0005 Consumers. (1) In WCCC, an eligible consumer has parental control of one or more children, lives in the state of Washington, and is the child's:

- (a) Parent, either biological or adopted;
- (b) Stepparent;
- (c) Legal guardian verified by a legal or court document;
- (d) Adult sibling or step-sibling;
- (e) Nephew or niece;
- (f) Aunt;
- (g) Uncle;
- (h) Grandparent; or
- (i) Any of the relatives in (f), (g), or (h) of this subsection with the prefix great (for example, great-aunt).

(2) Consumers may be eligible for WCCC benefits if they:

(a) Meet eligibility requirements for WCCC described under part II of this chapter;

(b) Participate in an approved activity under WAC 170-290-0040, 170-290-0045, 170-290-0050, or have been approved per WAC 170-290-0055;

(c) Comply with any special circumstances that might affect WCCC eligibility under WAC 170-290-0020; and

(d) Have countable income at or below (~~two hundred percent of the federal poverty guidelines (FPG) (under WAC 170-290-0065))~~ one hundred seventy-five percent of the federal poverty guidelines.

(3) A consumer is not eligible for WCCC benefits when he or she:

(a) Is the only parent in the family and will be away from the home for more than thirty days in a row; or

(b) Has a monthly copayment that is higher than the rate the state will pay for all eligible children in care.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0075 Determining income eligibility and copayment amounts. (1) DSHS takes the following steps to determine a consumer's eligibility and copayment:

(a) Determine the consumer's family size (under WAC 170-290-0015); and

(b) Determine the consumer's countable income (under WAC 170-290-0065).

(2) If the consumer's family's countable monthly income falls within the range below, then his or her copayment is:

IF A CONSUMER'S INCOME IS:	THEN THE CONSUMER'S COPAYMENT IS:
(a) At or below 82% of the federal poverty guidelines (FPG)	\$15
(b) Above 82% of the FPG up to 137.5% of the FPG	\$50
(c) Above 137.5% of the FPG through ((200)) 175% of the FPG	The dollar amount equal to subtracting 137.5% of FPG from countable income, multiplying by 44%, then adding \$50
(d) Above ((200)) 175% of the FPG, a consumer is not eligible for WCCC benefits.	

(3) DSHS does not prorate the copayment when a consumer uses care for part of a month.

(4) The FPG is updated every year on April 1. The WCCC eligibility level is updated at the same time every year to remain current with the FPG.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-0085 Change in copayment. (1) Once DSHS determines that a consumer is eligible for WCCC benefits, his or her copayment may change when:

- (a) The consumer's monthly income decreases;
- (b) The consumer's family size increases;
- (c) DSHS makes an error in the consumer's copayment computation;
- (d) The consumer did not report all income, activity and household information at the time of eligibility determination or application/reapplication;
- (e) The consumer is no longer eligible for the minimum copayment under WAC 170-290-0090;
- (f) DEL makes a mass change in benefits due to a change in law or program funding;
- (g) The consumer is approved for a new eligibility period; or
- (h) The consumer is approved for the fourteen-day wait period or twenty-eight-day gap period as provided in WAC 170-290-0055.

(2) If a consumer's copayment changes during his or her eligibility period, the change is effective on the first day of the month following DSHS becoming aware of the change.

(3) DSHS does not increase a consumer's copayment during his or her current eligibility period when his or her countable income remains at or below ~~((two hundred percent of the FPG))~~ the maximum eligibility limit as provided in WAC 170-290-0005 (2)(d), and:

- (a) The consumer's monthly countable income increases; or
- (b) The consumer's family size decreases.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-3520 Eligible consumers. (1) In SCC, an eligible consumer is not currently receiving temporary aid for needy families (TANF), lives in the state of Washington, has parental control of one or more children, and is the child's:

- (a) Parent, either biological or adopted;
- (b) Stepparent;
- (c) Legal guardian as verified by a legal or court document;
- (d) Adult sibling or step-sibling;
- (e) Aunt;
- (f) Uncle;
- (g) Niece or nephew;
- (h) Grandparent; or
- (i) Any of the above relatives in (e), (f), or (h) of this subsection, with the prefix "great," such as great-aunt.

(2) Consumers may be eligible for SCC benefits if they:

- (a) Meet eligibility requirements in this chapter;
- (b) Participate in an approved activity under WAC 170-290-3555; and

(c) Have countable income at or below ~~((two hundred percent of the federal poverty guidelines (FPG)))~~ the maximum eligibility limit described in WAC ~~((170-290-3640))~~ 170-290-0005 (2)(d).

(3) Consumers are not eligible for SCC benefits if they:

- (a) Have a copayment, under WAC 170-290-0075, that is higher than the maximum monthly state rate for all of the consumer's children in care;

- (b) Were employed with one employer more than eleven months in the previous twelve months;
- (c) Are receiving TANF benefits; or
- (d) Are the only parent in the household and will be away from the home for more than thirty days in a row.

AMENDATORY SECTION (Amending WSR 09-22-043, filed 10/28/09, effective 12/1/09)

WAC 170-290-3640 Determining income eligibility and copayment. (1) For the SCC program, DEL determines a consumer's family's income eligibility and copayment by:

- (a) The consumer's family size as defined under WAC 170-290-3540;
- (b) The consumer's average monthly income as calculated under WAC 170-290-3620;
- (c) The consumer's family's average monthly income as compared to the federal poverty guidelines (FPG); and
- (d) The consumer's family's average monthly income as compared to the copayment chart defined in WAC 170-290-0075.

(2) If a consumer's family's income is above ~~((two hundred percent of the FPG as defined in WAC 170-290-0075))~~ the maximum eligibility limit as provided in WAC 170-290-0005 (2)(d), his or her family is not eligible for the SCC program.

(3) SCC does not prorate the copayment when a consumer uses care for part of a month.

(4) The FPG is updated every year on April 1. The SCC eligibility level is updated at the same time every year to remain current with the FPG.

(5) SCC shall assign a copayment amount based on the family's countable income. The copayment amount will be on the consumer's child care plan. The consumer pays the copayment directly to the provider.

WSR 10-18-065
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed August 30, 2010, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-071.

Title of Rule and Other Identifying Information: Amending WAC 170-151-070 How do I apply for a license? and 170-295-0060 What are the requirements for applying for a license to operate a child care center?

Hearing Location(s): 1. Southwest Washington Educational Services District 112, 2500 N.E. 65th Avenue, Vancouver, 98661-6812, on Thursday, October 7, 2010, 6:30 p.m. to 9:00 p.m.

You may join this hearing at any time from 6:30 to 9:00 p.m. Those who cannot join this hearing in person may participate live at the following locations by video conference at Educational Services District 123, 3918 West Court Street, Blue Mountain Room, Pasco, 99301; and Puget Sound Educational Services District 121, 800 Oakesdale Avenue S.W., Puyallup Room, Renton, 98057-5221.

2. Yakima Valley Community College, Parker Room, South 16th Avenue and Nob Hill Boulevard, Yakima, WA 98902, on Saturday, October 9, 2010, at 10:00 a.m. to 12:30 p.m. You may join this hearing anytime from 10:30 a.m. to 12:30 p.m.

Everyone who comments on the proposed rules, either in writing or at a public hearing, will receive the department's combined written response, called a concise explanatory statement. This statement is also available to anyone who requests it, by contacting the department of early learning (DEL) rules coordinator at the address above, or by e-mail at Rules@del.wa.gov.

Date of Intended Adoption: After October 11, 2010.

Submit Written Comments to: DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970, DEL on-line comment web site <https://apps.del.wa.gov/PolicyProposalComment/Detail.aspx>, e-mail Rules@del.wa.gov, fax (360) 725-4939, by 11:59 p.m., October 10, 2010.

Assistance for Persons with Disabilities: Contact Andy Fernando, rules coordinator, by October 1, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature adopted a 2010-2011 supplemental operating budget bill - section 614(14), chapter 37, Laws of 2010, 1st sp. sess., that included proviso language directing DEL to increase annual child care center licensing fees by fifty-two dollars for the first twelve children plus an additional four dollars for each additional child up to the center's capacity noted on the facility's license. With the increase, the total annual license fee would [be] one hundred dollars for the first twelve children, and eight dollars for each additional child. The fee increase applies to child care centers and school-age center programs licensed by DEL.

DEL filed emergency rules making the child care center license fee increase effective July 1, 2010, filing number WSR 10-13-072. This proposal is to adopt the revised fee as a permanent rule.

Reasons Supporting Proposal: RCW 43.215.255 requires that child care licensing fees be set in rule. The legislature raised the child care center license fees as one of several measures intended to make up a projected \$2.8 billion shortfall in the state general fund budget in fiscal year 2011, and budget shortfalls projected in future years. Child care license fees collected are deposited into the state general fund and are not retained by DEL.

Statutory Authority for Adoption: RCW 43.215.255, chapter 43.215 RCW.

Statute Being Implemented: Section 614, chapter 37, Laws of 2010, 1st sp. sess.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Andy Fernando, DEL, Lacey, Washington, (360) 725-4397; Implementation and Enforcement: DEL field offices, state-wide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The licensing fee increase is directed by statute.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not listed among the state agencies required to comply with RCW 34.05.328.

August 26, 2010

Elizabeth M. Hyde
 Director

AMENDATORY SECTION (Amending WSR 08-10-041, filed 4/30/08, effective 5/31/08)

WAC 170-151-070 How do I apply or reapply for a license? (1) You must comply with the department's application procedures and submit to the department:

(a) A completed department-supplied application for school-age child care center license, including attachments, ninety or more days before the:

- (i) Expiration of your current license;
- (ii) Opening date of your center;
- (iii) Relocation of your center; or
- (iv) Change of the licensee.

(b) A completed background check form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The annual licensing fee(~~(-The fee)~~) is:

(i) For new licenses issued by the department before July 1, 2010, or for licensees whose annual licensing fees are due before July 1, 2010, forty-eight dollars per year for the first twelve children plus four dollars for each additional child over the licensed capacity of twelve children; or

(ii) For new licenses issued after June 30, 2010, or for licensees whose annual licensing fees are due after June 30, 2010, one hundred dollars per year for the first twelve children plus eight dollars for each additional child over the licensed capacity of twelve children.

(2) In addition to the required application materials specified under subsection (1) of this section, you must submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and of the site coordinator;

(b) Copies of diplomas or education transcripts of the director and site coordinator; and

(c) Three professional references each for you, the director, and the site coordinator.

(3) You, as the applicant for a license under this chapter must be twenty-one years of age or older.

(4) You must conform to rules and regulations approved or adopted by the:

(a) State department of health and relating to the health care of children at school-age child care centers;

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter 212-12 WAC.

(5) The department must not issue a license to you until the state fire marshal's office has certified or inspected and approved the center.

(6) The department may exempt a school site possessing a fire safety certification signed by the local fire official within six months prior to licensure from the requirement to receive an additional fire safety inspection by the state fire marshal's office.

(7) You must submit a completed plan of deficiency correction, when required, to the department of health and the department licensuror before the department will issue you a license.

(8) You, your director and site coordinator must attend department-provided orientation training.

AMENDATORY SECTION (Amending WSR 08-10-041, filed 4/30/08, effective 5/31/08)

WAC 170-295-0060 What are the requirements for applying for a license to operate a child care center? (1) To apply or reapply for a license to operate a child care center you must:

(a) Be twenty-one years of age or older;

(b) The applicant, director and program supervisor must attend the orientation programs that we provide, arrange or approve;

(c) Submit to us a completed and signed application for a child care center license or certification using our forms (with required attachments).

(2) The application package must include the following attachments:

(a) The annual licensing fee. The fee is based on your licensed capacity, and is:

(i) For new licenses issued by the department before July 1, 2010, or for licensees whose annual licensing fees are due before July 1, 2010, forty-eight dollars for the first twelve children plus four dollars for each additional child over the licensed capacity of twelve children; or

(ii) For new licenses issued after June 30, 2010, or for licenses whose annual license fees are due after June 30, 2010, one hundred dollars per year for the first twelve children plus eight dollars for each additional child over the licensed capacity of twelve children;

(b) If the center is solely owned by you, a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(c) If the center is owned by a corporation, verification of the corporation's employer identification number;

(d) An employment and education resume for:

(i) The person responsible for the active management of the center; and

(ii) The program supervisor.

(e) Diploma or education transcript copies of the program supervisor;

(f) Three professional references each, for yourself, the director, and the program supervisor;

(g) Articles of incorporation if you choose to be incorporated;

(h) List of staff (form is provided in the application);

(i) Written parent communication (child care handbook);

(j) Copy of transportation insurance policy (liability and medical);

(k) In-service training program (for facilities employing more than five persons);

(l) A floor plan of the facility drawn to scale;

(m) A copy of your health care plan reviewed and signed by an advisory physician, physician's assistant, or registered nurse;

(n) A copy of your policies and procedures that you give to parents; and

(o) A copy of your occupancy permit.

(3) You must submit to the department a completed background check form for all persons required to be authorized by DEL to care for or have unsupervised access to the children in care under chapter 170-06 WAC; and

(4) You must submit your application and reapplication ninety or more calendar days before the date:

(a) You expect to open your new center;

(b) Your current license is scheduled to expire;

(c) You expect to relocate your center;

(d) You expect to change licensee; or

(e) You expect a change in your license category.

WSR 10-18-072

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF

FINANCIAL INSTITUTIONS

(By the Code Reviser's Office)

[Filed August 31, 2010, 9:10 a.m.]

WAC 460-33A-015, 460-33A-017, 460-33A-020, 460-33A-031, 460-33A-035, 460-33A-036, 460-33A-037, 460-33A-040, 460-33A-055, 460-33A-060, 460-33A-065, 460-33A-070, 460-33A-075, 460-33A-081, 460-33A-086, 460-33A-090, 460-33A-095, 460-33A-100, 460-33A-105, 460-33A-115, 460-33A-116 and 460-33A-125, proposed by the department of financial institutions in WSR 10-05-048 appearing in issue 10-05 of the State Register, which was distributed on March 3, 2010, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted

within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

98504-7852, phone (360) 236-4766, fax (360) 236-2901, e-mail jennifer.sommer@doh.wa.gov.

August 31, 2010
Mary C. Selecky
Secretary

WSR 10-18-076

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 31, 2010, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-17-055.

Title of Rule and Other Identifying Information: Chapter 246-825 WAC establishing new rules for genetic counselors.

Hearing Location(s): Department of Health, Town Center Two, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on October 6, 2010, at 2:00 p.m.

Date of Intended Adoption: October 27, 2010.

Submit Written Comments to: Jennifer Coiteux, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by October 6, 2010.

Assistance for Persons with Disabilities: Contact Jennifer Coiteux by October 1, 2010, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to implement 2009 legislation, SSB 5608, codified as chapter 18.290 RCW, which requires licensure of genetic counselors. The proposed rules will establish enforceable standards of practice, and qualifications for licensure including, education and examination requirements, and fees.

Reasons Supporting Proposal: The proposed rules will protect the people of this state by establishing minimum competency standards for the profession of genetic counselors and by only licensing appropriately educated and trained individuals as required by law.

Statutory Authority for Adoption: RCW 18.290.020.

Statute Being Implemented: Chapter 18.290 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Coiteux, P.O. Box 47852, Olympia, WA 98504-7852, (360) 236-4766.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Coiteux, P.O. Box 47852, Olympia, WA

Chapter 246-825 WAC

GENETIC COUNSELORS

NEW SECTION

WAC 246-825-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "**ABGC**" means the American Board of Genetic Counseling, a national organization for certification and recertification of genetic counselors.

(2) "**ABMG**" means the American Board of Medical Genetics, a national organization for certification and recertification of genetic counselors and geneticists with medical or other doctoral degrees.

(3) "**Collaborating physician**" means a physician licensed under chapter 18.71 RCW, or an osteopathic physician licensed under chapter 18.57 RCW, who is board certified in clinical genetics specialty or board certified in a specialty relevant to the practice of the genetic counselor(s) and provides medical direction and support as documented in a written collaborative agreement. No employment relationship is required or implied for this interaction.

(4) "**Continuing education**" means postlicensure professional genetic counselor education accredited or approved by NSGC, ABGC or any other entity approved by the secretary, and designed to maintain and improve competence and promote professional development in the practice of genetic counseling.

(5) "**Department**" means the department of health.

(6) "**Genetic counselor**" means an individual licensed under chapter 18.290 RCW to engage in the practice of genetic counseling.

(7) "**Licensed health care provider**" means a physician licensed under chapter 18.71 RCW, physician assistant licensed under chapter 18.71A RCW, osteopathic physician licensed under chapter 18.57 RCW, osteopathic physician assistant licensed under chapter 18.57A RCW, advanced registered nurse practitioner licensed under chapter 18.79 RCW, or naturopathic physician licensed under chapter 18.36A RCW.

(8) "**NSGC**" means the National Society of Genetic Counselors, a professional membership society which promotes the genetic counseling profession as an integral part of health care delivery, and offers educational programs.

(9) "**Secretary**" means the secretary of the department of health.

(10) "**Supervisor**" means:

(a) A genetic counselor licensed under this chapter;

(b) A physician licensed under chapter 18.71 RCW with a current ABMG certification in clinical genetics specialty; or

(c) An osteopathic physician licensed under chapter 18.57 RCW, with a current ABMG certification in clinical genetics specialty.

NEW SECTION

WAC 246-825-020 Practice parameters. (1) Except as provided in WAC 246-825-030(1), a genetic counselor shall not diagnose, test or treat any genetic disease or condition or other disease or condition.

(2) If a genetic counselor finds any indication of a disease or condition that requires professional service outside the scope of practice defined in RCW 18.290.010, the genetic counselor shall refer that client to a licensed health care provider as defined in WAC 246-825-010(7).

NEW SECTION

WAC 246-825-030 Collaborative agreement. (1) Under a collaborative agreement, a licensed genetic counselor may order laboratory tests or recommend other evaluations to diagnose a hereditary condition or determine the carrier status of one or more family members, including testing for inherited disorders. The collaborative agreement shall include:

(a) A written statement identifying and signed by the collaborating physician and genetic counselor who are party to the agreement.

(b) A general statement of the procedures, decision criteria, or categories of care that a genetic counselor is to follow when ordering genetic tests or other evaluations.

(c) A selection of the most appropriate, accurate, and cost-effective methods of diagnosis.

(2) Any modification to the collaborative agreement shall be treated as a new agreement.

(3) A collaborative agreement must be reevaluated at least every two years and the document reexecuted if any modification is made.

(4) A signed copy of the collaborative agreement must be maintained by all parties and available for inspection by the department upon request.

NEW SECTION

WAC 246-825-050 Examination required. (1) An applicant for licensure as a genetic counselor shall take and pass the ABGC certification examination or other examination approved by the secretary, or have passed the ABMG general genetics and genetic counseling specialty examinations or the ABMG clinical genetics specialty or subspecialty certification examination.

(2) An applicant may appeal failure of the examination through ABMG's or ABGC's exam failure procedure.

NEW SECTION

WAC 246-825-060 Licensure requirements. (1) An applicant for licensure as a genetic counselor must:

(a) Have a master's degree from a genetic counseling training program that is accredited or was accredited at the

time of the applicant's graduation by the ABGC or an equivalent program as determined by the ABGC; or

(b) Have a doctorate from a medical genetics training program that is accredited by ABMG or an equivalent program as determined by the ABMG; and

(2) Meet examination requirements under WAC 246-825-050; and

(3) Complete four clock hours of AIDS education and training as required under chapter 246-12 WAC, Part 8; and

(4) Pay fees required under WAC 246-825-990(2); and

(5) Provide any other written declarations or documentation, as required by the secretary.

NEW SECTION

WAC 246-825-080 Licensure by endorsement. (1) An applicant for licensure as a genetic counselor who is currently licensed under the laws of another state shall file an application with the department and submit:

(a) Documentation verifying that the applicant meets the education requirements under WAC 246-825-060;

(b) Documentation that the applicant holds an unrestricted active license to practice as a genetic counselor in another state;

(c) Proof of passing the ABGC certification examination or the ABMG general genetics and genetic counseling specialty examinations or the ABMG clinical genetics specialty or subspecialty certification examinations;

(d) Documentation of completion of four clock hours of AIDS education and training as required under chapter 246-12 WAC, Part 8;

(e) Any other written declarations or documentation, as required by the secretary; and

(f) Fees required under WAC 246-825-990(2).

(2) The secretary may examine an endorsement application to determine whether the licensing standards of the other state are substantially equivalent to the licensing standards in Washington state.

(3) An endorsement applicant may also apply for a temporary practice permit as established under WAC 246-12-050.

NEW SECTION

WAC 246-825-100 Qualification for provisional license. (1) An individual who has met all the requirements for licensure except for passing the examination may apply for a provisional license to engage in supervised practice as a genetic counselor.

(2) Applicants may be eligible for a provisional license, if they:

(a) Have met the education requirements of WAC 246-825-060 (1)(a) or (b); and

(b) File documentation of supervised practice as outlined under WAC 246-825-105 with the department; and

(c) Pay fees required under WAC 246-825-990(3).

(3) An applicant for provisional licensure shall not practice as a genetic counselor until his or her application for such licensure has been approved.

(4) A provisional license shall expire on the practitioner's birthday as provided under WAC 246-12-020 or upon the earliest of the following:

- (a) A license is granted; or
- (b) A notice of decision is mailed.

(5) A provisional license may be renewed a maximum of three times.

NEW SECTION

WAC 246-825-105 Documentation and supervision—Provisional license. (1) An individual practicing under the authority of a provisional license shall practice genetic counseling only under the general supervision of a supervisor.

(a) The applicant for provisional license must provide the name, business address and telephone number, professional license number, and signature of the supervisor.

(b) The supervisor's license and ABGC or ABMG certification shall be current and in good standing at all times during the supervisory relationship.

(c) The provisionally licensed genetic counselor and the supervisor shall notify the department in writing of any change relating to the working relationship within fifteen days of the change. In the event of a change of supervisor, a provisional licensee shall not practice as a genetic counselor at any time between the end of one supervisory relationship and the department's receipt and approval of the new supervisor.

(2) General supervision includes:

(a) On-going availability to engage in direct communication, either face-to-face or by electronic means;

(b) Active, ongoing review of the genetic counselor's services, as appropriate, for quality assurance and professional support;

(c) Description of contingency plans to include the unplanned unavailability of the primary supervisor; and

(d) Identification and professional license number of an alternate supervisor, as appropriate to the practice setting.

(3) General supervision does not require the physical presence of the supervisor. The supervisor shall be readily accessible for consultation and assistance to the provisionally licensed genetic counselor.

NEW SECTION

WAC 246-825-110 Continuing education. (1) Licensed genetic counselors must complete a minimum of seventy-five continuing education hours or 7.5 continuing education units (CEUs) every three years following the first license renewal. One contact hour equals 0.1 CEU. No more than fifteen continuing education hours or 1.5 CEUs may be earned for professional development activity credits within a reporting cycle.

(2) Professional development activities include, but are not limited to:

(a) Teaching or providing clinical supervision; authoring or coauthoring an article or chapter in peer-review journal; genetics education outreach; leadership activities.

(b) Lecturing or instructing professional groups.

(c) Teaching genetics related courses for undergraduate, graduate, or other health provider groups.

Multiple credits shall not be given to presenters for multiple presentations of the same program.

(3) Practice-based competency courses or programs may consist of postgraduate studies, seminars, lectures, workshops (including distance learning), and professional conferences. Practice-based competencies include, but are not limited to:

(a) Communication - convey detailed genetic information to diverse audiences clearly and concisely while bridging cultural, socioeconomic and educational difference.

(b) Critical thinking - perform complicated risk calculations; evaluate medical, family and psychosocial histories; distill genetic and psychosocial information; participate in diagnostic evaluations; and develop effective case management plan.

(c) Interpersonal counseling, and psychosocial assessment - use an empathetic approach to identify a patient's concerns, clarify beliefs and values, promote preventative health measures and facilitate informed decision making.

(d) Professional ethics and values.

(4) Courses and programs accredited or approved by the following organizations qualify for continuing education credit for licensed genetic counselors.

(a) ABGC;

(b) ABMG;

(c) NSGC; or

(d) Other courses or programs as approved by the secretary.

(5) Continuing education contact hours or CEUs may not be carried over from one reporting cycle to another.

(6) A genetic counselor may request an extension or to be excused from meeting the continuing education requirements due to illness or other extenuating circumstances.

NEW SECTION

WAC 246-825-130 Auditing for compliance. Licensed genetic counselors must comply with auditing and documentation requirements under chapter 246-12 WAC, Part 7. If audited, the licensee will be required to submit documentation of completed continuing education activities.

(1) Acceptable documentation of continuing education includes:

(a) Certificates indicating the date, number of contact hours awarded, program title, and participant's name; or

(b) An original letter on official stationery from the continuing education program's sponsor indicating the date, number of contact hours awarded, program title, and participant's name.

(2) The secretary may require additional information as needed to assess compliance.

NEW SECTION

WAC 246-825-140 Expired license. (1) A genetic counselor may not practice at any time while his or her license is expired. If the license has expired, the practitioner must meet the requirements under chapter 246-12 WAC, Part 2.

(2) If a license is expired for three years or more the practitioner must meet the requirements under chapter 246-12 WAC, Part 2 and demonstrate competence in one of the following ways:

(a) Provide verification of current active practice in another state or U.S. jurisdiction or Canada, and ABGC or ABMG certification.

(b) Provide verification of a current unrestricted active credential in another state or U.S. jurisdiction or Canada.

(c) Take and pass the ABGC certification examination or other examination approved by the secretary no more than six months prior to applying for licensure.

NEW SECTION

WAC 246-825-990 License fees. (1) Licenses must be renewed every year on the practitioner's birthday as provided under chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application	300.00
Renewal	300.00
Late renewal penalty	150.00
Expired license reissuance	150.00
Duplicate license	30.00
Certification of licensure	30.00

(3) The following nonrefundable fees will be charged for provisional license:

Title	Fee
Application	30.00
Renewal	30.00
Late renewal penalty	30.00
Duplicate provisional license	30.00

**WSR 10-18-078
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed August 31, 2010, 2:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-22-082.

Title of Rule and Other Identifying Information: Chapter 296-305 WAC, Safety standards for firefighters.

Hearing Location(s): Tumwater Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on November 1, 2010, at 9:00 a.m.; and at the Spokane Department of Labor and Industries, 901 North Monroe Street, Suite 100, Spokane, WA 99201, on November 3, 2010, at 1:00 p.m.

Date of Intended Adoption: December 28, 2010.

Submit Written Comments to: Kimberly Johnson, P.O. Box 44620, Olympia, WA 98504-4620, e-mail rhok235@lni.wa.gov, fax (360) 902-5619, by November 12, 2010.

Assistance for Persons with Disabilities: Contact Beverly Clark by October 25, 2010, (360) 902-5516 or clah235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The federal Occupational Safety and Health Administration (OSHA) advised the department of a couple of areas in the firefighters standard where we are not as-effective-as the federal rules. Stakeholders asked us to look at our firefighter standards and bring them up-to-date with current consensus standards and practices.

NEW SECTIONS:

WAC 296-305-02002 Structural firefighting clothing (SFF).

WAC 296-305-02004 Protection ensemble for structural firefighting.

- Existing PPE sections were combined and updated to be in line with the NFPA format and references.

WAC 296-305-02012 Body armor.

- This section was rewritten to be more specific about determining when body armor should be used and how, and updated to current NIJ standards for vests.

WAC 296-305-03002 Hazardous materials.

- Requirements were rewritten to remove pieces that duplicated the emergency response standard, and reordered to read more easily. Additionally, terminology was updated to match the NFPA.

WAC 296-305-04510 Aerial apparatus.

- WAC 296-305-04509 Aerial [Aerial] ladders and 296-305-04511 Elevated platforms, were combined, updated and formatted to be consistent with the NFPA.

WAC 296-305-05000 Incident management.

- Our rule currently applies only to a structural fire-ground, not HAZMAT, vehicle emergencies, wild-fires, drills, etc. Requirements were added to apply to these situations. Additionally, we added requirements to bring our rule into compliance with the presidential declaration creating the national incident management system. We also added language about different zones and addressed firefighters being struck by vehicles at the scene of incidents.

WAC 296-305-05002 Fire suppression.

- This section contains the pieces of our original emergency fireground operations section that were left after updating the incident management section. We removed "structural" from the rule, and made it apply to general suppression. This is also the section that addresses the 2-in/2-out issue. We will no longer allow both standby firefighters to have other duties in addition to standing by. We further clarified that the standby firefighter can't be doing something critical to the safety of the firefighters on the

scene. Additionally, we cleared up language about what types of communication can be used, and now require the use of SCBA throughout the overhaul phase of firefighting.

WAC 296-305-05004 Occupational exposure to heat and cold stress.

- Requirements were added to combine L&I's requirements for outdoor heat exposure with the NFPA on rehabilitation.

WAC 296-305-05101 Technical rescue general requirements.

WAC 296-305-05103 Technical rescue training.

WAC 296-305-05105 Technical rescue standard operating procedure.

WAC 296-305-05107 Technical rescue incident response planning.

WAC 296-305-05109 Technical rescue equipment.

WAC 296-305-05111 Technical rescue safety.

WAC 296-305-05113 Technical rescue operational specialties.

- These sections have been rewritten to bring our technical rescue pieces into one section and more in line with the NFPA, which is the industry standard. We added subjects that had not been previously addressed, such as swift water, tunnel, and mine rescue, and updated the rope rescue section. We also made it clear that the specialty requirements apply only to those departments who chose to do this work.

WAC 296-305-05502 Training and member development.

- Combined training requirements from WAC 296-305-05501 Fire training and 296-305-05503 Summary of training requirements. We added a section covering the use of structures for training other than live fires, such as destruction or dealing with asbestos. We also made the training language clear and put the information contained in WAC 296-305-05503 into a table.

WAC 296-305-06006 Ground ladders.

- Rewrote requirements from current section to come into compliance with NFPA standards.

WAC 296-305-06008 Electrical.

- Rewrote electrical section to apply to all electrical equipment and to come into compliance with other L&I electrical requirements.

WAC 296-305-07002 Wildfire personnel accountability.

WAC 296-305-07004 Heat-related illness prevention for wildfire firefighters.

WAC 296-305-07006 Equipment for wildfire firefighting.

WAC 296-305-07008 Aircraft operations for fighting wildfires.

WAC 296-305-07010 Training for wildland firefighting.

WAC 296-305-07012 Personal protective clothing and equipment for wildland firefighting.

WAC 296-305-07014 Apparatus standards for wildland firefighting.

WAC 296-305-07016 Falling and equipment in forest lands.

WAC 296-305-07018 Occupant restraints and enclosures for wildland firefighting.

- The above sections were clarified, updated and reordered from the previous wildland firefighting section, with new requirements for working in forested areas added.

AMENDED SECTIONS:

In addition to housekeeping corrections throughout the rule, the following amendments were made:

WAC 296-305-01003 Scope and application.

- Deleted language "the provisions of this standard do not apply to industrial fire brigades, as defined in this chapter."

WAC 296-305-01005 Definitions.

- Definitions have been updated to fit the terminology used in the firefighting standard.

WAC 296-305-01501 Injury and illness reports for firefighters.

WAC 296-305-01503 Accident investigation.

- Housekeeping changes were made to give the correct phone number and forms for reporting injuries/illness.

WAC 296-305-01505 Accident prevention program.

WAC 296-305-01507 Fire department safety officer.

- The term "safety officer" was changed to "health and safety officer."

WAC 296-305-01509 Management's responsibility.

- Requirements for management policies were added and clarified.

WAC 296-305-01513 Safe place standards.

- Changed wording from "all firefighting work methods," to "all work methods."

WAC 296-305-01517 First-aid kits.

- Removed the additional references to chapter 296-800 WAC sentence.

WAC 296-305-02001 Personal protective equipment and protective clothing.

- Terminology and NFPA editions were updated.

WAC 296-305-02017 Personal alert safety system (PASS) protection.

- Changed wording from "working in a hazardous area" to "engage in structural firefighting."
- Changed reference date to NFPA.
- Changed reference from "WAC 296-305-07019" to "WAC 296-305-07018."

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection.

- Changed wording from "All life safety ropes, harnesses, and hardware used by fire departments shall meet the applicable requirements of" to "Organiza-

tions performing rope rescue operations must make sure previously purchased life safety ropes and equipment comply with the 2001 edition of."

- Added language "Ropes and equipment purchased after the effective date of this rule must meet the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services."
- Added information on Class III harnesses.

WAC 296-305-02501 Emergency medical protection.

- Changed reference date to NFPA.
- Removed references to chapter 296-823 and 296-62 WAC.

WAC 296-305-04001 Respiratory equipment protection.

- Requirements for respirator use and testing vendor-supplied breathing air were updated and clarified.

WAC 296-305-04501 Automotive fire apparatus design and construction.

- Changed reference to NFPA and United States Department of Transportation standards.
- Added language about securing equipment.

WAC 296-305-04503 Automotive fire apparatus equipment.

- Changed reference to United States Department of Transportation.

WAC 296-305-04505 Automotive apparatus operational rules.

- Changed language in additional reference section.

WAC 296-305-04507 Fire apparatus maintenance and repair.

- Added requirement that suppression components of emergency vehicles are only to be repaired by specifically qualified individuals.

WAC 296-305-05013 Aircraft rescue and firefighting.

- Updated standard to require compliance with NFPA.

WAC 296-305-06001 Fire service equipment.

- Updated references.

WAC 296-305-06003 Testing fire service equipment.

- Added testing requirements; remove requirements around life safety belts and rescue ropes.

WAC 296-305-06501 Requirements for fire station facilities.

- Changed the title of the section from "station" to "department."

WAC 296-305-06503 General requirements.

- Added language outlining requirements for departments that choose to install sliding poles.
- Added language addressing asbestos in properties used by fire departments.

WAC 296-305-06505 Sanitation, disinfection, cleaning, and storage areas.

- Changed language from "needs to be decontaminated and/or disinfected" to "is contaminated or potentially contaminated."

WAC 296-305-06507 Sleeping areas.

- Added language "and carbon monoxide."

WAC 296-305-06511 Indoor air quality.

- Updated references.

WAC 296-305-06513 Refueling areas.

- Changed wording from "Uniform Fire Code" to "International Fire Code."

WAC 296-305-06515 Hose drying towers.

- Removed the additional reference language.

WAC 296-305-06517 Drill tower training facilities.

- Changed rappelling anchors support from 4500 to 5000 pounds per person.

WAC 296-305-06519 Fire station equipment and tools.

- Added the word "WAC" in a reference.

WAC 296-305-07001 Wildland fire operations.

- Updated, clarified and reordered the requirements relating to fighting wildfires. Added requirements about working in forested areas.
- Changed title from "wildland fire" to "wildfire."

WAC 296-305-08000 Appendices.

- Changed spelling of fungicidal.
- Updated wording for poly sheeting.

REPEALED SECTIONS:

WAC 296-305-01002 Effective date.

- This section no longer applies to the rule.

WAC 296-305-01009 Appeals.

- The requirements in this section were moved to chapter 296-900 WAC, Administrative rules, in a previous rule making so are now being repealed from the firefighting standard.

WAC 296-305-02003 Eye and face protection.

WAC 296-305-02005 Hearing protection.

WAC 296-305-02007 Hand protection.

WAC 296-305-02009 Body protection.

- Requirements were moved to WAC 296-305-02004.

WAC 296-305-02011 Body armor.

- Requirements were moved to WAC 296-305-02012.

WAC 296-305-02013 Foot protection for structural firefighting.

WAC 296-305-02015 Head protection.

- Requirements were moved to WAC 296-305-02004.

WAC 296-305-03001 Hazardous materials protection.

- Requirements were moved to WAC 296-305-03002.

WAC 296-305-04509 Aerial ladders.

- Requirements combined with WAC 296-305-04511 Elevated platforms, and rewritten as WAC 296-305-04510 Aerial apparatus.

WAC 296-305-04511 Elevated platforms.

- Requirements combined with WAC 296-305-04509 Aerial ladders, and rewritten as WAC 296-305-04510 Aerial apparatus.

WAC 296-305-05001 Emergency fireground operations—Structural.

- Requirements revised and moved to WAC 296-305-05000 and 296-305-05002.

WAC 296-305-05003 Confined space rescue operations.**WAC 296-305-05005 Rope rescue operations.****WAC 296-305-05007 Trench rescue operations.****WAC 296-305-05009 Watercraft rescue operations.****WAC 296-305-05011 Hazardous materials operations.**

- Requirements updated and moved to the new technical rescue section, WAC 296-305-05101 through 296-305-05113.

WAC 296-305-05501 Fire training.**WAC 296-305-05503 Summary of training requirements.**

- Combined requirements, updated and reordered into new section WAC 296-305-05502 Training and member development.

WAC 296-305-06005 Ground ladders.

- Requirements moved to WAC 296-305-06006 Ground ladders.

WAC 296-305-06007 Electrical.

- Requirements moved to WAC 296-305-06008 Electrical.

WAC 296-305-07003 Personal protective clothing and equipment for wildland firefighting.**WAC 296-305-07005 Respiratory protection for wildland firefighters.****WAC 296-305-07007 Wildland personnel accountability.****WAC 296-305-07009 Apparatus standards for wildland firefighting.****WAC 296-305-07011 Occupant restraints and enclosures for wildland firefighting.****WAC 296-305-07013 Equipment for wildland firefighting.****WAC 296-305-07015 Aircraft operations for fighting wildland fires.****WAC 296-305-07017 First aid for wildland firefighters.****WAC 296-305-07019 Training for wildland firefighting.**

- The above sections were clarified, reordered and updated into the new and amended sections WAC 296-305-07001 through 296-305-07018.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW; RCW 49.17.400, 49.17.420, 49.17.430, and 49.17.440.

Rule is necessary because of federal law, C.F.R. 1910.134.

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

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, Washington, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, Washington, (360) 902-4805.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Fire departments, as public agencies, do not fall under the purview of the Regulatory Fairness Act, which monitors the effects of rules on small businesses. However, a cost-benefit analysis has been prepared.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kimberly Johnson, P.O. Box 44620, Olympia, WA 98504-4620, e-mail rhok235@lni.wa.gov.

August 31, 2010

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 06-01-073, filed 12/20/05, effective 3/1/06)

WAC 296-305-01003 Scope and application. (1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).

(2) The provisions of this chapter apply to all firefighters and their work places, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a firefighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.

(3) In the development of this document many consensus standards of the industry were considered and evaluated as to adaptability to the Washington state fire service industry. Where adaptable and meaningful, the firefighter safety elements of these standards were incorporated into this WAC. Chapter 296-305 WAC, shall be considered as the firefighter safety standards for the state of Washington.

(4) The provisions of this chapter cover existing requirements that apply to all fire departments. All fire departments shall have in place their own policy statement and operating instructions that meet or exceed these requirements. This chapter contains state and/or federal performance criteria that fire departments shall meet.

(5) Unless specifically stated otherwise by rule, if a duplication of regulations, or a conflict exists between the rules regulating wildland firefighting and other rules in the chapter, only the rules regulating wildland firefighting shall apply to wildland firefighting activities and equipment.

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of

the department of labor and industries, chapters 296-24, 296-62, 296-800, and 296-811 WAC. In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply.

(7) ~~((The provisions of this standard do not apply to industrial fire brigades, as defined in this chapter.))~~ Industrial fire brigades are covered under the provisions of chapter 296-811 WAC, Fire brigades.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01005 Definitions. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

Accident: An unexpected event that interrupts or interferes with the orderly progress of the fire department operations and may or may not include personal injury or property damage.

Accountability (tracking) system: A system of firefighter accountability that provides for the tracking and inventory of all members.

ACGIH: American Conference of Governmental Industrial Hygienists.

~~((**Aerial ladder:** A ladder mounted on top of an apparatus, hydraulic or pneumatic controlled.~~

~~**Aerial tower:** Telescopic elevating platform or water tower assembly usually with a ladder on top of the section.~~

~~**Aerial platform:** A device consisting of two or more booms or sections with a passenger carrying platform assembly.))~~

ACM: Asbestos-containing material; any material containing more than 1 percent asbestos.

Aerial devices: Fire apparatus-mounted aerial ladders, elevated platforms, and water towers.

ANSI: American National Standards Institute.

Apparatus: A mobile piece of fire equipment such as a pumper, aerial, tender, automobile, etc.

Approved:

(1) A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person, or organization authorized to make such a judgment.

(2) Means approved by the director of the department of labor and industries or his/her authorized representative: Provided, however, That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of chapter 296-800 WAC shall apply.

~~((**Audiogram:** A chart, graph, or table resulting from an audiometric test showing an individual's hearing threshold levels as a function of frequency.~~

~~**Authorized person:** A person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.~~

~~**Beacon:** A flashing or rotating light.))~~

Asbestos: Includes chrysotile, amosite, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered.

Belt: See ladder belt and escape belt.

Bloodborne pathogens: Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Blowup (wildfire): Sudden increase in fire intensity or rate of spread sufficient to preclude direct control or to upset existing control plans. Often accompanied by violent convection and may have other characteristics of a fire storm.

~~((**Chemical protective clothing:** Items made from chemical resistive materials, such as clothing, hood, boots, and gloves, that are designed and configured to protect the wearer's torso, head, arms, legs, hands, and feet from hazardous materials. Chemical protective clothing (garments) can be constructed as a single, or multipiece, garment. The garment may completely enclose the wearer either by itself or in combination with the wearer's respiratory protection, attached or detachable hood, gloves, and boots.))~~

CBRN: Chemical, biological, radiological, and nuclear.

Chief: The employer representative highest in rank who is responsible for the fire department's operation.

Cold zone: The control zone of an incident that contains the command post and such other support functions as are deemed necessary to control the incident.

Note: The cold zone establishes the public exclusion or clean zone. There are minimal risks of human injury or exposure in this zone.

Combat scene: The site where the suppression of a fire or emergency exists.

~~((**Confinement:** Those procedures taken to keep a material in a defined or local area.))~~

Confined space: Means a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

(3) Is not designed for continuous employee occupancy.

Containment: The actions taken to keep a material in its container (e.g. stop the release of the material or reduce the amount being released.)

Contaminated: The presence or the reasonably anticipated presence of nuisance materials foreign to the normal atmospheres, blood, hazardous waste, or other potentially infectious materials on an item or surface.

Contaminated laundry: Laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

Contamination: The process of transferring a hazardous material from its source to people, animals, the environment, or equipment, which may act as a carrier.

dB(A): A measure of noise level expressed as decibels measured on the "A" scale.

~~((**Deck pipe:** A permanently mounted device which delivers a large stream of water.))~~

Decontamination:

(1) The physical or chemical process of reducing and preventing the spread of contamination from persons or equipment used at a hazardous materials incident.

(2) The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

~~((Department: Department of labor and industries.~~

~~Director of fire department: The chief or principle administrator of the fire department.))~~

Director: The director of the department of labor and industries, or his/her designated representative.

Disinfection: A procedure which inactivates virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (example: bacterial endospores) on inanimate objects.

Disturb/disturbance: Refers to activities that disrupt the matrix of, crumble or pulverize, or generate visible debris from ACM or PACM.

Double-layer woven clothing: Clothing worn in two layers allowing air to reach the skin. For example, coveralls worn on top of regular work clothes.

Drill tower: A structure which may or may not be attached to the station and which is principally used for training firefighters in fire service techniques.

Drinking water: Potable water that is suitable to drink. Drinking water packaged as a consumer product and electrolyte-replenishing beverages (i.e., sports drinks) that do not contain caffeine are acceptable.

Driver/operator: A person having satisfactorily completed the fire department's "requirements of driver/operator" of a specific piece of fire apparatus.

Emergency: A sudden and unexpected event calling for immediate action.

Emergency incident: A specific emergency operation.

Emergency medical care: The provision of treatment to, and/or transportation of, patients which may include first aid, cardiopulmonary resuscitation, basic life support, advanced life support, and other medical procedures that occur prior to arrival at a hospital or other health care facility.

Emergency operations: Activities of the fire department relating to rescue, fire suppression, emergency medical care, and special operations, including response to the scene of an incident and all functions performed at the scene.

Employee: An employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is their personal labor for an employer under this chapter whether by way of manual labor or otherwise. Also see "Member."

Employer: Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public

corporations, political subdivisions of the state, and charitable organizations.

Employer representative: A fire department officer authorized by the chief or director of the fire department to act in his/her behalf.

Engine (pumper): A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

~~((Engineering control: Any procedure other than an administrative control that reduces exposures by modifying the source or reducing the exposure to an individual. Examples of engineering controls include the use of isolation, containment, encapsulation, sound absorbing materials for noise control, and ventilation.~~

~~Explosion proof equipment: Equipment enclosed in a case that is capable of withstanding an explosion or a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that it will not ignite a surrounding flammable atmosphere.~~

~~Fastest means available: The (nearest-closest) telephone, portable radio, mobile radio, telephone/radio dispatcher or any other mode of mechanical communication.))~~

Escape belt: A device that fastens around the waist only and is intended to be used by the wearer only as an emergency self-rescue device.

Escape rope: A single-purpose emergency self-escape (self-rescue) rope, not classified as a life safety rope.

Exclusion zone: The control zone designated to exclude all unauthorized personnel, responders, and equipment.

Note: Examples of exclusion zones could be holes in floors, explosive devices, or collapse hazards.

Fire apparatus: A fire department emergency vehicle used for rescue, fire suppression, or other specialized functions.

Fire boat: A fire department watercraft having a permanent, affixed firefighting capability.

~~((Fire combat training: Training received by firefighters on the drill ground, drill tower, or industrial site to maintain the firefighter's proficiency.))~~

Fire department: An organization providing any or all of the following: Rescue, fire suppression, and other related activities. For the purposes of this standard the term "Fire Department" shall include any public, private, or military organization engaging in this type of activity.

Fire department facility: Any building or area owned, operated, occupied, or used by a fire department on a routine basis. This does not include locations where a fire department may be summoned to perform emergency operations or other duties, unless such premises are normally under the control of the fire department.

~~((Fire department safety officer: The member of the fire department assigned and authorized as the principal safety officer to perform the duties and responsibilities specified in this standard.))~~

Firefighter: A member of a fire department whose duties require the performance of essential firefighting functions or substantially similar functions.

Fire retardant: Any material used to reduce, stop or prevent the flame spread.

Fire suppression training: Training received by firefighters on the drill ground, drill tower, or industrial site to maintain the firefighter's proficiency.

Fly: Extendible sections of ground or aerial ladders.

~~((Foot stand, ladder: Devices attached to inside of beams of ladders that when folded down, provide foot space.))~~

Full body harness: See life safety harness.

Ground jack: Heavy jacks attached to frame of chassis of aerial-equipped apparatus to provide stability when the aerial portion of the apparatus is used.

~~((Ground mobile attack: The activities of wildland firefighting with hose lines being used by personnel working around a moving engine. See mobile attack.))~~

Guideline: An organizational directive that establishes a standard course of action.

Halyard: Rope used on extension ladders for the purpose of raising or lowering fly section(s). A wire cable may be referred to as a halyard when used on the uppermost fly section(s) of three or four section extension ladders.

Harness: See life safety harness.

Hazard communication program: A procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees. See WAC 296-800-170, Chemical Hazard Communication Program.

Hazard control zones:

Cold zone: The control zone of an incident that contains the command post and such other support functions as are deemed necessary to control the incident.

Note: The cold zone established the public exclusion or clean zone. There are minimal risks of human injury or exposure in this zone.

Exclusion zone: The control zone designated to exclude all unauthorized personnel, responders, and equipment.

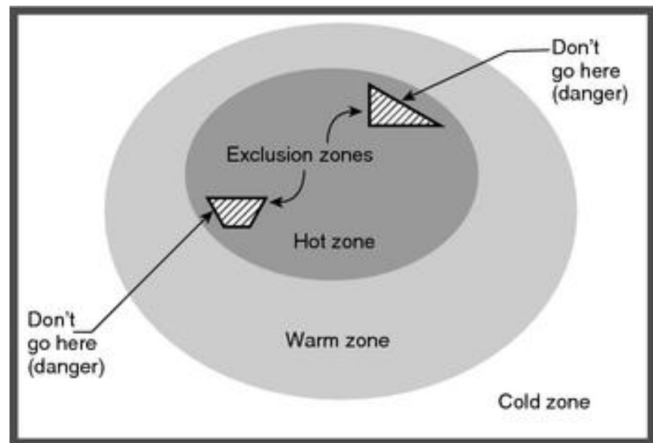
Note: Examples of exclusion zones could be holes in floors, explosive devices, or collapse hazards.

Hot zone: The control zone immediately surrounding the hazard area, which extends far enough to prevent adverse effects to personnel outside the zone. The hot zone is presenting the greatest risk to members and will often be classified as an IDLH atmosphere.

Warm zone: The control zone outside the hot zone where personnel and equipment decontamination and the hot zone support takes place.

Note: The warm zone is a limited access area for members directly aiding or in support of operations in the hot zone. Significant risk of human injury (respiratory, exposures, etc.) can still exist in the warm zone.

Hazard Zones :



Hazards: The characteristics of facilities, equipment, systems, property, hardware or other objects and those areas of structures or buildings posing a hazard greater than normal to the general occupancy or structures.

Hazardous area: The immediate area where members might be exposed to a hazard.

Hazardous atmosphere: Any atmosphere, either immediately or not immediately dangerous to life or health, which is oxygen deficient or which contains a toxic or disease-producing contaminant.

Hazardous condition: The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.

Hazardous material: A substance (solid, liquid, or gas) that when released is capable of creating harm to people, the environment, and property.

Hazardous substances: Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.

~~((HEPA filtration: High efficiency particulate air filtration found in vacuum system capable of filtering 0.3 micron particles with 99.97% efficiency.))~~

Health and safety officer: The member of the fire department assigned and authorized as the administrator of the fire department health and safety program. This member may or may not serve as a safety officer at the scene of an emergency incident.

Heat-related illness: A medical condition resulting from the body's inability to cope with a particular heat load, and includes, but is not limited to, heat cramps, heat rash, heat exhaustion, fainting, and heat stroke.

Hose bed: Portion of fire apparatus where hose is stored.

Hose tower: A vertical enclosure where hose is hung to dry.

Hot zone: ~~((Area))~~ The control zone immediately surrounding ~~((a hazardous materials incident))~~ the hazard area, which extends far enough to prevent adverse effects ~~((from~~

hazardous materials releases)) to personnel outside the zone. ((This)) The hot zone is ((also referred to as the exclusion zone or the restricted zone in other documents)) the area presenting the greatest risk to members and will often be classified as an IDLH atmosphere.

Identify: To select or indicate verbally or in writing using recognized standard terms. To establish the identity of; the fact of being the same as the one described.

IDLH: Immediately dangerous to life and health.

Imminent hazard (danger): An act or condition that is judged to present a danger to persons or property and is so immediate and severe that it requires immediate corrective or preventative action.

Incident commander: The person in overall command of an emergency incident. This person is responsible for the direction and coordination of the response effort.

Incident command system (ICS): A system that includes: Roles, responsibilities, operating requirements, guidelines and procedures for organizing and operating an on-scene management structure.

Incident safety officer: The person assigned the command staff function of safety officer in the incident command system.

Incipient (phase) fire: The beginning of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing minute amounts of water vapor, carbon dioxide, carbon monoxide and other gases; the room has a normal temperature and can be controlled or extinguished with a portable fire extinguisher or small hose, e.g., a kitchen stove fire.

Industrial fire brigade: An organized group of employees whose primary employment is other than firefighting who are knowledgeable, trained and skilled in specialized operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

~~((Initial stage (initial action): Shall encompass the control efforts taken by resources which are first to arrive at an incident:))~~

Initial fire suppression training: The training of firefighters in recognizing sources and locations of potential fires and the method of fire suppression to be used.

Initial stages: Tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

Injury: Physical damage suffered by a person that requires treatment by a practitioner of medicine (a physician, nurse, paramedic or EMT) within one year of the incident regardless of whether treatment was actually received.

Interior structural firefighting: The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. See structural firefighting.

Known rescue: A situation of compelling evidence where a member sees, hears, or is directly told of a trapped and viable victim by an occupant who has escaped or is a credible witness.

Ladder belt: A device that fastens around the waist only and is used as a positioning device for a person on a ladder.

Life safety harness - Class I: A device that fastens around the waist and around the thighs or under buttocks and is designed to be used for emergency escape with a design load of three hundred pounds.

Life safety harness - Class II: A device that fastens around the waist and around the thighs or under buttocks and is designed for rescue with a design load of six hundred pounds.

Life safety harness - Class III: A device that fastens around the waist and around the thighs or under buttocks and over the shoulders and designed for rescue with a design load of six hundred pounds.

Note: Fall arrest requires a five thousand pound anchor per person, unless free fall is limited to two feet and a shock-absorbing lanyard is used; in that case a three thousand pound-per-person anchor is allowed. Rappelling requires a minimum three thousand pound-per-person anchor. (See chapter 296-155 WAC, Part C-1). Only a Class III full body harness may be used for fall arrest. A Class III full body harness or Class II (NFPA) or Class IV (ANSI) suspension/position belt may be used for rappelling; however, if one of these is used for rappelling a belay line must be used in conjunction with a double prussic or a mechanical device.

Life safety or rescue rope: Rope dedicated solely for the purpose of constructing lines for supporting people during rescue, firefighting, or other emergency operations, or during training evolutions.

~~((Line: Rope when in use:))~~

Live fire: Any unconfined open flame or device that can propagate fire to the building, structure, or other combustible materials.

Live fire training: Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of firefighters under actual fire conditions.

Locking in: The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.

~~((Manned station: See staffed station:))~~

May: A permissive use or an alternative method to a specified requirement.

Mayday: The nationally adopted "call for help" term used to indicate that an emergency responder is in a situation of imminent peril where they are in need of immediate help.

Member: A person involved in performing the duties and responsibilities of a fire department under the auspices of the organization. A fire department member may be a full-time or part-time employee or a paid or unpaid volunteer, may occupy any position or rank within the fire department, and engages in emergency operations. Also see Employee.

Mobile attack: The act of fighting wildland fires from a moving engine.

~~((Monitor: A portable appliance that delivers a large stream of water:))~~

Mop up: The act of making a wildfire/wildland fire safe after it is controlled, such as extinguishing or removing burning materials along or near the control line, felling snags, trenching logs to prevent rolling:))

NFPA: National Fire Protection Association.

~~((NHMS:))~~ **NIMS:** The National ~~((Interagency))~~ Incident Management System.

NIOSH: National Institute of Occupational Safety and Health.

~~((**Nondestructive testing:** A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.))~~

Nonskid: The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

Occupational exposure: Means reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

Officer: (1) Person in charge of a particular task or assignment.

(2) A supervisor.

OSHA: Occupational Safety and Health Administration.

Other potentially infectious materials (OPIM): (1) The following body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(3) HIV-containing cell or tissue cultures, organ cultures, and HIV-or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Outrigger: Manually or hydraulically operated metal enclosures and jacks which are extended and placed in contact with the ground to give the apparatus a wide, solid base to support different loads.

~~((**Overhauling:** That portion of fire extinguishment involving discovery of hidden fires or smoldering material.))~~

Overhaul: A firefighting term involving the process of final extinguishment after the main body of a fire has been knocked down. All traces of fire must be extinguished at this time.

PACM: Presumed asbestos-containing material. Thermal system insulation and surfacing material found in buildings, vessels and vessel sections constructed no later than 1980.

PASS: Personal alert safety system.

PEL: Permissible exposure limit.

Personal protective equipment (PPE): (1) The equipment provided to shield or isolate a person from the chemical, physical, and thermal hazards that may be encountered at a hazardous materials incident. Personal protective equipment includes both personal protective clothing and respiratory protection. Adequate personal protective equipment should protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

(2) Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

~~((**Place of employment:** Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.))~~

Platform: The portion of a telescoping or articulating boom used as a working surface.

Positive communication: Visual, audible, physical, safety guide rope, or electronic means which allows for two way message generation and reception.

PPE: Personal protective equipment.

~~((**Prefire training:** The training of firefighters in recognizing sources and locations of potential fires and the method of fire combat to be used.))~~

Probable fatality: (1) An occupational injury or illness, which, by the doctor's prognosis, could lead to death.

(2) An occupational injury or illness, which by its very nature, is considered life threatening.

Protective clothing: Equipment designed to protect the wearer from heat and/or hazardous materials contacting the skin or eyes. Protective clothing is divided into five types:

(1) Structural firefighting protective clothing;

(2) Liquid splash-protective clothing;

(3) Vapor-protective clothing;

(4) High temperature-protective proximity clothing; and

(5) Wildland firefighting clothing.

Note: See Protective ensemble.

Protective ensemble: Multiple elements of clothing and equipment designed to provide a degree of protection for firefighters from adverse exposures to the inherent risks of structural firefighting operations and certain other emergency operations. The elements of the protective ensemble are helmets, coats, trousers, gloves, footwear, interface components (hoods), and if applicable, personal alert system (PASS) devices, and self-contained breathing apparatus.

Proximity protective clothing: Radiant reflective protective garments configured as a coat and trousers, or as a coverall, and interface components that are designed to provide protection for the firefighter's body from conductive, convective, and radiant heat.

Pumper: See engine.

Qualified: One who by possession of a recognized degree, certificate or professional standing, or who by knowledge, training or experience has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work or the project.

Rapid intervention ((~~team (RIT))~~) crew (RIC): On-scene team of at least two members designated, dedicated and equipped to effect an immediate rescue ((~~operation~~)) of firefighters if the need arises (also known as RIT).

RCW: Revised Code of Washington.

Rehabilitation: The process of providing mental and medical evaluation, rest, hydration, and nourishment to members who are engaged in emergency operations.

Rescue: Those activities directed at locating endangered persons at an emergency incident and removing those persons from danger.

Rescue craft: Any fire department watercraft used for rescue operations.

Respirator: A device designed to protect the wearer from breathing harmful atmospheres. See respiratory protection.

Respiratory equipment: Self-contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus requires no intake of air or oxygen from the outside atmosphere.

(1) Respirators (closed circuit): Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.

(2) Respirators (open circuit): Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.

(3) Respirators (demand): Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.

(4) Respirators (pressure demand): Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.

Respiratory protection: Equipment designed to protect the wearer from the inhalation of contaminants. Respiratory protection is divided into three types:

(1) Positive pressure self-contained breathing apparatus (SCBA);

(2) Positive pressure airline respirators;

(3) Negative pressure air purifying respirators.

Responding: The usual reference to the act of responding or traveling to an alarm or request for assistance.

Risk assessment: To set or determine the possibility of suffering harm or loss, and to what extent.

Rope rescue equipment: Components used to build rope rescue systems including life safety rope, life safety harnesses and auxiliary equipment.

Rope rescue system: A system composed of rope rescue equipment and an appropriate anchor system intended to support people during rescue, firefighting, or other emergency operations, or during training evolutions.

Safe and healthful working environment: The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.

~~((Safety officer: Either the fire department safety officer or an assistant safety officer (see fire department safety officer).))~~

Safety net: A rope or nylon strap net not to exceed 6-inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.

Scabbard: A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the firefighter.

SCBA: Self contained breathing apparatus.

Service testing: The regular, periodic inspection and testing of apparatus and equipment according to an established schedule and procedure, to insure that it is in safe and functional operating condition.

Shall: Mandatory.

Should: Recommended.

~~((Signalman: A person so positioned that he/she can direct the driver when the drivers vision is obstructed or obscured.))~~

SOP: Standard operating procedure or guidelines.

~~((Staffed station: A fire station continuously occupied by firefighters on scheduled work shifts. The staffed station may also serve as headquarters for volunteers.))~~

Standard operating procedure or guidelines: An organizational directive that establishes a standard course of action. See SOP.

Standby firefighters: On-scene members designated to effect an immediate rescue of the initial team operating in the hot zone.

Station (fire station): Structure in which fire service apparatus and/or personnel are housed.

Structural firefighting: The activities of rescuing, fire suppression, and property conservation involving buildings, enclosed structures, aircraft, vehicles, vessels, or similar properties that are involved in a fire or emergency situation. See interior structural firefighting.

Structural firefighting protective clothing: This category of clothing, often called turnout or bunker gear, means the protective clothing normally worn by firefighters during structural firefighting operations. It includes a helmet, coat, pants, boots, gloves, and a hood. Structural firefighters' protective clothing provides limited protection from heat but may not provide adequate protection from the harmful gases, vapors, liquids, or dusts that are encountered during hazardous materials incidents.

~~((Support function: A hazardous chemical operation involving controlled chemical uses or exposures in nonflammable atmospheres with minimum threats in loss of life, personnel injury, or damage to property or to the environment. Functions include decontamination, remedial cleanup of identified chemicals, and training.))~~

Support function protective garment: ~~A chemical-protective suit that meets the requirements of NFPA Standard on Support Function Garments, 1993.)~~

Tail/running board: Standing space on the side or rear of an engine or pumper apparatus.

Team: Two or more individuals who are working together in positive communication with each other through visual, audible, physical, safety guide rope, electronic, or other means to coordinate their activities and who are in close proximity to each other to provide assistance in case of emergency.

Tillerman: Rear driver of tractor-trailer aerial ladder.

Trench: A narrow excavation made below the surface of the ground. The depth is generally greater than the width, but the width of a trench is not greater than 15 feet.

Turnout clothing: See structural firefighting protective clothing.

Turntable: The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.

~~((Universal precaution: An approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if~~

known to be infectious for HIV, HBV, and other bloodborne pathogens:))

Urban wildfire: An uncontained fire requiring suppression action, usually spreading through ground cover, vegetative fuels, brush, grass, and landscaping; often threatening residential and commercial structures within an urban environment with access to established roadways and water systems.

Vapor barrier: Material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

Vapor barrier clothing: Clothing that significantly inhibits or completely prevents sweat produced by the body from evaporating into the outside air. Such clothing includes encapsulating suits, various forms of chemical resistant suits used for PPE, and other forms of nonbreathing clothing.

Variance: An allowed or authorized deviation from specific standard(s) when an employer substitutes measures which afford an equal degree of safety. Variances are issued as temporary or permanent with interim measures issued, when requested, until a determination or decision is made.

Vessel: Means every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special-purpose floating structures not primarily designed for or used as a means of transportation on water.

WAC: Washington Administrative Code.

Warm zone: The control zone outside the hot zone where personnel and equipment decontamination and hot zone support take place.

Note: The warm zone is a limited access area for members directly aiding or in support of operations in the hot zone. Significant risk of human injury (respiratory, exposures, etc.) can still exist in the warm zone.

Wheel blocks (chocks): A block or wedge placed under a wheel to prevent motion.

~~((Wildfire: An unplanned and unwanted fire requiring suppression action; an uncontrolled fire, usually spreading through vegetative fuels and often threatening structures.~~

~~**Wildland fire:** A fire burning in natural vegetation that requires an individual or crew(s) to expend more than one hour of labor to confine, control and extinguish. Agencies may substitute crews to avoid the one hour bench mark or increase crew size to complete the job in less than one hour. One hour was chosen as the maximum time that individuals should work in high temperatures in structural protective clothing:))~~

Wildland firefighting: The activities of fire suppression and property conservation in woodlands, forests, grasslands, brush, and other such vegetation or any combination of vegetation, that is involved in a fire situation but is not within buildings or structures.

Wildland firefighting enclosure: A fire apparatus enclosure with a minimum of three sides and a bottom.

WISHA: Washington Industrial Safety Health Act.

Work environment: The surrounding conditions, influences or forces to which an employee is exposed while working.

Workplace: ~~((See place of employment.~~

~~**WRD:** ~~WISHA regional directive:))~~ Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.~~

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01007 Variance and procedure. (1) Conditions may exist in operations that a state standard will not have practical use. The director may issue a variance from the requirements of the standard when another means of providing equal protection is provided.

(2) Applications for variances will be reviewed and investigated by the department. Variances granted shall be limited to the specific WAC code covered in the application and may be revoked for cause. The variance shall remain prominently posted on the premises while in effect.

Note: Variance forms may be obtained from the department upon request. Requests for variance from safety and health standards shall be made in writing to the assistant director, Consultation and Compliance Services Division, Department of Labor and Industries, P.O. Box 44600, Olympia, Washington 98504-4600. ~~((Reference RCW 49.17.080 and 49.17.090.))~~

AMENDATORY SECTION (Amending WSR 08-05-012, filed 2/8/08, effective 4/1/08)

WAC 296-305-01501 Injury and illness reports for firefighters. (1) Notice of injury or illness.

~~((Whenever an occupational accident causes injury or illness to a firefighter or other employee, or whenever a firefighter or other employee becomes aware of an illness apparently caused by occupational exposure, it shall be the duty of such a firefighter or other employee, or someone on his/her behalf, to report the injury or illness to the employer before the end of his/her duty period but not later than twenty four hours after the incident.))~~ Employees must report work-related injuries or illnesses to their employer before the end of their duty period, but not later than twenty-four hours after the incident.

(b) Exception: In the event that symptoms of an occupational injury or illness are not apparent at the time of the incident, the employee shall report the symptoms to his/her employer within forty-eight hours after becoming aware of the injury or illness.

(c) Within eight hours after the fatality or probable fatality of any firefighter or employee from a work-related incident or the inpatient hospitalization of any employee as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/hospitalization by telephone (1-800-423-7233) or in person, to the nearest office of the department ~~((or by using the OSHA toll-free central telephone number, 1-800-321-6742)).~~

(i) This requirement applies to each such fatality or hospitalization which occurs within thirty days of the incident.

(ii) Exception: If any employer does not learn of a reportable incident at the time it occurs and the incident

would otherwise be reportable under this subsection, the employer shall make a report within eight hours of the time the incident is reported to any agent or employee of the employer.

(iii) Each report required by this subsection shall relate the following information: Establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

(2) Recordkeeping - written reports; all fire service employers shall maintain records of occupational injuries and illnesses. Reportable cases include every occupational death, every occupational illness, or each injury that involves one of the following: Unconsciousness, inability to perform all phases of regular duty-related assignment, inability to work full time on duty, temporary assignment, or medical treatment beyond first aid.

(3) All fire departments shall record occupational injury and illnesses on ~~((forms OSHA 101 Supplementary Record Occupational Injuries and Illnesses and OSHA 200 Log summary. Forms other than OSHA 101 may be substituted for the Supplementary Record of Occupational Injuries and Illnesses if they contain the same items))~~ OSHA Form 300, Log of Work-Related Injuries and Illnesses.

(4) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from ~~((the Form OSHA No. 200))~~ OSHA Form 300A, Summary of Work-Related Injuries and Illnesses and the following information from that form: Calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. ~~((A Form OSHA No. 200))~~ An OSHA Form 300A shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted. The summary shall be completed by February 1 each calendar year. The summary covering the previous calendar year shall be posted no later than February 1st, and shall remain in place until ~~((March 1))~~ April 30th.

AMENDATORY SECTION (Amending WSR 09-01-158, filed 12/23/08, effective 3/1/09)

WAC 296-305-01503 Accident investigation. (1) After the emergency actions following ~~((accidents))~~ incidents that cause serious injuries ~~((that have))~~ with immediate symptoms or exposure to occupational disease causing chemicals or physical agents, a preliminary investigation of the cause of the ~~((accident))~~ incident shall be conducted. The investigation shall be conducted by a person designated, trained and qualified by the employer. The fire department shall establish a written procedure and a program for investigating, and evaluating the facts, relating to the cause of accidents. The findings of the investigation shall be documented by the employer for reference at any following formal investigations.

(2) Within eight hours after the fatality or probable fatality of any firefighter or employee from a work-related incident or the inpatient hospitalization of any employee as a result of a work-related incident, the employer of any

employees so affected, shall orally report the fatality/hospitalization by telephone (1-800-423-7233) or in person, to the nearest office of the department ~~((or by using the OSHA toll-free central telephone number, 1-800-321-6742)).~~

(3) Equipment involved in an accident resulting in an immediate or probable fatality, shall not be moved, until a representative of the ~~((consultation and compliance services))~~ division of occupational safety and health investigates the accident and releases such equipment, except where removal is essential to prevent further accident. When necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(4) Upon arrival of the department's investigator, the employer shall assign to assist the investigator such personnel as are deemed necessary by the department to conduct the investigation.

(5) The fire department shall preserve all records, photographic materials, audio, video, recordings, or other documentation concerning an accident.

~~((Reference: WAC 296-24-020 (2), (3).))~~

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01505 Accident prevention program.

(1) All fire departments shall develop and implement a written safety program.

(2) Fire department safety programs shall have an assigned health and safety officer.

(3) Each employer shall develop a formal accident-prevention program, tailored to the needs of the fire department and to the type of hazards involved. The department of labor and industries' consultation and compliance services division may be contacted for assistance in developing appropriate programs.

~~((a))~~ A safety orientation program describing the employer's safety program shall include:

~~((i))~~ (a) How and when to report injuries, including instruction as to the location of first-aid facilities.

~~((ii))~~ (b) How to report unsafe conditions and practices.

~~((iii))~~ (c) The use and care of required personal protective equipment.

~~((iv))~~ (d) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

~~((v))~~ (e) Identification of the hazardous gases, chemicals or materials involved, along with the instructions on the safe use and emergency action following accidental exposure.

~~((vi))~~ (f) A description of the employer's total safety program.

~~((vii))~~ (g) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(4) Fire departments shall have a safety committee to serve in an advisory capacity to the fire chief. The number of employer-selected members shall not exceed the number of employee-elected members.

(5) The frequency of safety meetings shall be determined by the safety committee, but shall not be less than one hour

per calendar quarter, however, special meetings may be held at the request of either party.

(6) Minutes shall be taken of all safety meetings. After review by the chief or his/her designee the minutes shall be conspicuously posted at all stations.

(7) Employee submitted written suggestions or complaints shall be considered. Action recommendations by the committee shall be transmitted in writing to the fire chief. The chief or his/her designated agent will reply to the submitter.

(8) Inspections of fire stations shall be made at least monthly and records maintained to ensure that stations are reasonably free of recognized hazards. These inspections shall include, but not be limited to, tools, apparatus, extinguishers, protective equipment, and life safety equipment.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01507 Fire department health and safety officer. (1) The duties and responsibilities of the fire department health and safety officer shall include, but are not limited to:

- (a) Plan and coordinate safety activities.
- (b) Work closely with the safety committee.
- (c) Ensure accidents are investigated.
- (d) Devise corrective measures to prevent accidents.

(2) Realizing safety training and recordkeeping are management's responsibility, the fire department health and safety officer shall ensure the following requirements are being met:

- (a) Ensure safety training for all employees.
- (b) Ensure safety directives are complied with.
- (c) Ensure that records are kept, but not limited to the following:

- (i) Accidents;
- (ii) Injuries;
- (iii) Inspections;
- (iv) Exposures;
- (v) Medical monitoring;
- (vi) Safety meetings;
- (vii) Apparatus;
- (viii) Equipment;
- (ix) Protective clothing;
- (x) Other fire department safety activities.

(3) The fire department health and safety officer, through the fire chief, shall have the authority and responsibility to identify and recommend correction of safety and health hazards.

(4) The fire department health and safety officer shall maintain a liaison with staff officers regarding recommended changes in equipment, procedures, and recommended methods to eliminate unsafe practices and reduce existing hazardous conditions.

Additional Reference: NFPA 1521 Standard for Fire Department Safety Officer, may be used as a guide for duties and responsibilities relating to the safety officer.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01509 Management's responsibility.

(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment, as it applies to ~~((noncombat conditions or to combat conditions at a fire scene after the fire has been extinguished, as determined by the officer in charge))~~ both nonemergency and emergency conditions.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(d) Procedures to be used by the fire department health and safety ~~((officer))~~ administrator and incident commander to ensure that emergency medical care is provided for members on duty.

(e) An accident investigation program as required by this chapter.

(f) Policies that clarify "rules of engagement" or parameters when personnel should commit to work activities within a hot zone.

(g) Policies that clarify the right of every employee to notify the employer of potential life-threatening situations during emergency operations and processes that clarify how this notification is to occur.

(2) The fire department shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.

(3) Members who are under the influence of alcohol or drugs shall not participate in any fire department operations or other functions. This rule does not apply to persons taking prescription drugs as directed by a physician or dentist providing such use does not endanger the worker or others.

(4) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers, with the approval of management.

(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health posters. The WISHA poster (WISHA form F416-081-000) and other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The fire department shall develop and maintain a hazard communication program as required by WAC 296-800-170, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.

(7) Personnel.

(a) The employer shall assure that employees ~~((who are expected to do interior structural firefighting))~~ are physically capable of performing duties that may be assigned to them ~~((during emergencies))~~.

(b) The employer shall not permit employees with known physical limitations reasonably identifiable to the

employer, for example, heart disease or seizure disorder, to participate in ~~((structural firefighting emergency))~~ physically demanding activities unless the employee has been released to participate in such activities by a physician ((to participate in such activities)) or other licensed health care professional (LHCP) who is qualified by training or experience to evaluate firefighters.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-01513 Safe place standards. (1) Every employer shall furnish and require the use of appropriate safety devices and safeguards. All ~~((firefighting))~~ work methods, and operations shall be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the safety and health of employees.

(2) No firefighter or other employee, employer or employer representative shall:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.

(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-01517 First-aid kits. (1) To assure the emergency medical care of the firefighters there shall be present at each emergency incident at least the following items:

- 1 (one) utility scissors, EMT-type
- 1 CPR barrier
- 3 (three) rolls 1 inch adhesive tape
- 6 (six) 4" x 4" sterile, individually wrapped gauze pads
- 4 (four) combination pads, sterile, individually wrapped
- 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
- 2 (two) burn sheets, sterile, individually wrapped
- 2 (two) triangular bandages
- 1 (one) multitrauma dressing, sterile
- 2 (two) supply disposable gloves
- 2 (two) wire splints or equivalent

(2) All fire stations shall maintain a first-aid kit. The kit shall contain at least the following items:

- 6 (six) 4" x 4" sterile, individually wrapped gauze pads
- 4 (four) combination pads, sterile, individually wrapped
- 2 (two) rolls 1 inch adhesive tape
- 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
- 2 (two) triangular bandages
- 1 (one) utility scissors, EMT-type
- 1 (one) pair tweezers
- 1 (one) package assorted adhesive bandages

(3) All fire apparatus shall contain a first-aid kit as described in WAC 296-800-150.

(4) All fire departments providing emergency medical services to the public shall conform to the requirements of chapter 18.73 RCW Emergency Care and Transportation Ser-

vices (and if applicable, chapter 248-17 WAC, Ambulance Rules and Regulations) which require additional first-aid equipment.

~~((Additional references: Chapter 296-800 WAC.))~~

AMENDATORY SECTION (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

WAC 296-305-02001 Personal protective equipment and protective clothing.

Note: For wildland firefighting personal protective equipment and clothing requirements see WAC ~~((296-305-07003))~~ 296-305-07012, Personal protective clothing and equipment for wildland firefighting.

(1) Employers shall provide and maintain at no cost to the employee the appropriate protective ensemble/protective clothing to protect from the hazards to which the member is or is likely to be exposed. Information on hazard assessments can be found in WAC 296-800-16005. Employers shall ensure the use of all protective equipment and clothing required by this standard. Employers shall assure that the protective clothing and equipment ordered or purchased after the effective date of this standard meets the requirements of this standard. Full protective equipment designated for the task, shall be worn for all department activities.

(2) Firefighters shall be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the protective equipment assigned to them or available for their use.

(3) Protective clothing and protective equipment shall be used and maintained in accordance with manufacturer's instructions. A written maintenance, repair, retirement, servicing, and inspection program shall be established for protective clothing and equipment. Specific responsibilities shall be assigned for inspection and maintenance. This requirement applies to firefighter's personally owned equipment as well as equipment issued by the employer.

(4) The fire department shall provide for the cleaning of protective clothing and contaminated station/work uniforms at no cost to the employee. Such cleaning shall be performed by either a cleaning service, or at a fire department facility, that is equipped to handle contaminated clothing.

Note: See Appendix A.

(5) Personal protective equipment and clothing shall be of a type specified by NIOSH, MSHA, NFPA, ANSI, or as specifically referenced in the appropriate section of this chapter.

(6) Station/work uniforms. Station/work uniforms are not themselves intended as primary protective garments.

(a) Station/work uniforms if provided, shall meet the requirements as specified in the 1990 or 1994 edition of NFPA 1975, Standard on Station/Work Uniforms for Fire and Emergency Services.

(b) All station/work uniforms purchased after the effective date of this regulation shall meet the requirements set forth in this standard.

(c) Station/work uniforms include trousers, and/or coveralls, but exclude shirts, underwear, and socks.

(d) Members shall not wear any clothing that is determined to be unsafe due to poor thermal stability or poor flame resistance when engaged in or exposed to the hazards of structural firefighting. Because it is impossible to ensure that every member will respond to an incident in a station/work uniform or will change out of fabrics that have poor thermal stability or ignite easily, before donning protective garments, the fire department shall inform members of the hazards of fabrics that melt, drip, burn, stick to the skin and cause burns to the wearer due to poor thermal stability or poor flame resistance.

(e) Garments meeting the requirements of WAC ((296-305-07003)) 296-305-07012(1), meet the intent of this section.

~~((f) Station/work uniforms purchased prior to the effective date of this chapter shall be acceptable for a period of two years or until the employers current inventory has been exhausted, whichever comes first.))~~

(7) ~~((Turnout clothing/pants and coat:))~~

Proximity firefighting clothing:

(a) All turnout clothing used as proximity clothing shall meet the requirements of the 2000 edition of NFPA, 1976 Standard on Protective ~~((Clothing))~~ Ensemble for Proximity Firefighting~~((, 1992 edition))~~.

(b) There shall be at least a two-inch overlap of all layers of the protective coat and the protective trousers so there is no gapping of the total thermal protection when the protective garments are worn. The minimum overlap shall be determined by measuring the garments on the wearer, without SCBA, with the wearer in the most stretched position, hands together reaching overhead as high as possible.

(c) Single piece protective coveralls shall not be required to have an overlap of all layers as long as there is continuous full thermal protection.

(d) Fire departments that provide protective coats with protective resilient wristlets secured through a thumb opening may provide gloves of the gauntlet type for use with these protective coats. Fire departments that do not provide such wristlets attached to all protective coats shall provide gloves of the wristlet type for use with these protective coats.

~~((8) Structural firefighting clothing.~~

~~(a) All turnout clothing purchased after the effective date of these regulations shall meet the requirements of the 1991 edition of NFPA, Standard on Protective Clothing for Structural Firefighting 1971 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Firefighting 1971. In no case, shall firefighters wear personal protective clothing manufactured prior to the 1986 edition, NFPA, Standard on Protective Clothing for Structural Firefighting 1971.~~

~~(b) Turnout clothing shall be maintained as specified by the manufacturer.~~

~~(c) Repairs to turnout clothing shall be done to the manufacturer's specification by qualified individuals approved by the manufacturer. Repairs must be made using materials and methods in accordance with the applicable standards under which the article was produced. Repairs include any and all alterations, modifications, additions, deletions or any other change made to the manufacturer's PPE article.~~

~~(d) Turnout clothing which is damaged or does not comply with this section shall not be used.~~

~~(e) All turnout clothing shall be inspected semi-annually by an individual qualified by the employer. Inspection intervals shall not exceed six months.))~~

NEW SECTION

WAC 296-305-02002 Structural firefighting clothing (SFF). (1) All SFF clothing purchased after the effective date of these regulations shall meet the requirements of the 1991 edition of NFPA 1971, Standard on Protective Clothing for Structural Fire Fighting, or the 1997 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting. Firefighters shall not wear personal protective clothing manufactured prior to 1991, except for training purposes in non-hazardous areas.

(2) SFF clothing shall be maintained as specified by the manufacturer.

(3) Repairs to SFF clothing shall be done to the manufacturer's specification by qualified individuals approved by the manufacturer. Repairs must be made using materials and methods in accordance with the applicable standards under which the article was produced. Repairs include any and all alterations, modifications, additions, deletions or any other change made to the manufacturer's PPE article.

(4) SFF clothing which is damaged or doesn't comply with this section shall not be used.

(5) All SFF clothing shall be inspected semiannually by an individual qualified by the employer. Inspection intervals shall not exceed six months.

NEW SECTION

WAC 296-305-02004 Protection ensemble for structural firefighting. (1) Face and eye protection.

(a) Face and eye protection shall be provided for and used by firefighters engaged in fire suppression and other operations involving hazards to the eye and face at all times when the face isn't protected by the full facepiece of the SCBA. Primary face and eye protection appropriate for a given specific hazard shall be provided for, and used by, members exposed to that specific hazard. Such primary face and eye protection shall meet the requirements of the 2003 edition of ANSI Z87.1.

(b) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to wear eye protection, shall wear goggles or spectacles of one of the following types:

- Spectacles with protective lenses that provide optical correction.
- Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.
- Goggles that incorporate corrective lenses mounted behind the protective lens.

(c) When limitations or precautions are indicated by the manufacturer, they shall be transmitted to the user and care taken to see such limitations and precautions are strictly observed.

(d) Care, use and maintenance for any type of eye or face protection shall follow the manufacturer's suggested recommendations.

(e) Goggles shall be inspected, cleaned and disinfected prior to being reissued to other employees.

(f) Helmet face shields shall meet the requirements of the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

Note: The helmet face shield alone doesn't always provide adequate eye protection against flying particles, splash, gases and vapors. For known eye hazards, such as cutting with power saws, chopping, drilling and using extrication equipment, the face shield should be worn with additional eye protection.

(g) For firefighters that don't have a helmet face shield, flexible or cushioned fitting goggles shall be provided.

(h) Goggles shall consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(i) Materials used shall be chemical-resistant, nontoxic, nonirritating and slow burning.

(ii) There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortably and snugly in front of the eyes.

(2) Hearing protection. Fire departments must address noise issues as required by chapter 296-817 WAC, Hearing loss prevention (noise).

Note: Although noise levels may exceed the 115 dBA ceiling limit for noise exposures during structural firefighting activities, hearing protection that will survive these conditions and not interfere with other essential PPE may not always be available. Fire departments must consider daily noise exposures and exposures to noise outside direct firefighting activities when selecting hearing protection and may use less protection during direct fire suppression when adequate hearing protection isn't technically feasible.

(3) Hand protection.

(a) Firefighters' gloves shall, when worn with turnout clothing, provide protection to the wrist area. In turnout clothing where wristlet protection isn't provided firefighters' gloves shall be tight-fitting at the top.

(b) Fire departments shall establish written policy and procedure for the care, use, cleaning, replacement or retirement criteria for gloves issued.

(c) Firefighters' gloves used during structural firefighting operations including rescue of victims from fires or emergency medical operations where sharp or rough surfaces are likely to be encountered shall meet the requirements of the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

Notes:

- Firefighters' gloves aren't designed to provide protection against all environments. For gloves needed to fulfill a specific requirement see that specific section of this chapter. It is the intent of this section to provide protection from intrusion through the glove by certain chemicals and from bloodborne pathogens. Consult the glove manufacturers' recommendations.
- Firefighters' hands should be sized for compliance using the sizing chart specified in the 2000 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(4) Body protection. Body protection shall be coordinated with torso, hand, head, foot, respiratory, and face pro-

tection as outlined in WAC 296-305-02001 through 296-305-02019 and 296-305-04001.

(5) Foot protection.

(a) Protective footwear purchased after the effective date of this standard shall comply with the 2007 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(b) Fire departments shall establish written policies and procedures on the use, maintenance, and retirement criteria for footwear in conjunction with the manufacturer's recommendations.

Note: Fire departments should establish cleaning and drying instructions for protective footwear, including applicable warnings regarding detergents, soaps, cleaning additives and bleaches.

(c) Firefighter footwear may be resoled, but upon resoling the footwear shall meet the requirements specified in this section.

(6) Head protection. Firefighters who engage in or are exposed to the hazards of structural firefighting shall be provided with and use helmets that meet, as a minimum, the requirements of the 1987 edition of NFPA 1972, Standard on Helmets for Structural Fire Fighting.

(a) Helmets purchased after the effective date of this rule shall comply with the 2007 edition of NFPA 1971, Standard on Protective Ensemble for Structural Fire Fighting.

(b) Fire departments shall establish a written policy and procedure for the care, use, maintenance and retirement criteria for helmets, following the manufacturer's recommendations.

(c) Helmet accessories shall not interfere with the function of the helmet or its parts, and shall not degrade the helmet's performance.

(d) Firefighters shall follow the manufacturer's recommendations regarding inspection, cleaning, painting, marking, and storage of helmets.

NEW SECTION

WAC 296-305-02012 Body armor. Fire departments that use protective body armor shall comply with the following:

(1) If the employer's PPE assessment required by WAC 296-800-16005 documents a need for body armor, the employer must provide the necessary equipment and ensure that:

(a) The body armor fits properly;

(b) Employees are trained in the use and limitations of the body armor; and

(c) The body armor is worn when necessary.

Note: Employees may exceed the minimum requirements for body armor if they choose.

(2) The fire department shall develop and have in place written guidelines for the care, use and maintenance of the protective body armor in conjunction with the manufacturer's recommendations.

(3) All protective body armor purchased prior to the effective date of this standard shall meet or exceed the April 1987 edition of National Institute of Justice NIJ 0101.03, threat level II requirements, or be demonstrated by the

employer to be equally effective. All protective body armor purchased after the effective date of this standard must meet either the September 2000 edition of NIJ 0101.04, threat level II requirements or the June 2001 revision, NIJ 0101.04A. All body armor made of decertified materials as outlined in the 2005 edition of NIJ 0101.05 should be removed from service as soon as replacement body armor is available.

(4) Body armor shall be correctly fitted following the manufacturer's recommendations and shall not be used beyond the manufacturer's warranty.

Note: DOSH Directive 5.09, Body Armor as Personal Protective Equipment, can provide additional guidance regarding selection of body armor.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-02017 Personal alert safety system (PASS) protection. (1) Each firefighter (~~(working in a hazardous area)~~) engaged in structural firefighting requiring the use of SCBA shall wear and use a PASS device. PASS devices shall meet the requirements of the 1993 edition of NFPA 1982, Standard on Personal Alert Safety Systems (PASS) for Firefighters ((1982, 1993 edition)). (See WAC 296-305-07001 through ~~((296-305-07019))~~ 296-305-07018 for wildland firefighting application.)

(2) Each PASS device shall be tested routinely to ensure it is ready for use and immediately prior to each use, and shall be maintained in accordance with the manufacturers' instructions.

(3) Fire departments shall provide written procedures for the use of PASS devices.

(4) Compliance with this section shall occur no later than two years after the effective date of this chapter.

Note: Fire departments should provide one spare PASS device for each ten units in service. If a department has less than ten devices they should have one spare.

(5) Fire departments shall establish a written procedure for the care, use, maintenance, and repair of PASS devices in conjunction with manufacturer's recommendations.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection. (1) ~~((All life safety ropes, harnesses, and hardware used by fire departments shall meet the applicable requirements of))~~ Organizations performing rope rescue operations must make sure previously purchased life safety ropes and equipment comply with the 2001 edition of NFPA 1983, Standard on ((Fire Service)) Life Safety Rope((; Harness, and Hardware, 1990 edition)) and System Components. Ropes and equipment purchased after the effective date of this rule must meet the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services.

(2) Ropes used to support the weight of members or other persons during rescue, firefighting, other emergency

operations, or during training evolutions shall be life safety rope.

(3) Life safety rope used for rescue at fires, or other emergency incidents, or for training, shall be permitted to be reused if inspected before, and after, each such use in accordance with the manufacturer's instructions and provided:

(a) The rope has not been visually damaged by the exposure to heat, direct flame impingement, chemical exposure, or abrasion.

(b) The rope has not been subjected to any impact load.

(c) The rope has not been exposed to chemical liquids, solids, gases, mists, or vapors of any materials, known to deteriorate rope.

(d) If the rope used for rescue at fires or other emergency incidents, or for training, has been subjected to (a), (b), or (c) of this section, or fails the visual inspection, it shall be destroyed after such use.

(e) If there is any question regarding the serviceability of the rope after consideration of the above, the safe course of action shall be taken and the rope shall be placed out of service. See Appendix B.

(f) Rope inspection shall be conducted by qualified inspectors in accordance with rope inspection procedures established and recommended as adequate by the rope manufacturer to assure rope is suitable for reuse.

(4) Fire departments shall establish written procedures for the use of life safety ropes and rescue operations utilizing harnesses and ropes.

(5) Records shall provide a history of each life safety and training rope. The minimum information to be reflected in the record of history of life safety and training ropes shall include: Date of manufacturer, organization serial number, date of use ((list to include)), type of use, date of inspection, inspectors name and space for comments.

(6) Life safety rope used for training evolutions ~~((shall be designated as training rope and))~~ or rescue shall be permitted to be reused if inspected before and after each use in accordance with the manufacturer's instructions.

(7) The destruction of a rope means that it shall be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This includes disposal or removal of labels and cutting into short lengths to be used for utility purposes.

(8) All repairs to life safety harnesses shall be done by an authorized manufacturer's representative, or the manufacturer.

Note: See WAC 296-305-06003 (3), (4), (5), and (6) for the testing of life belts, ropes, and harnesses.)

(9) ~~((Class I safety harnesses))~~ At a minimum, ladder belts shall be used for firefighter attachment to ladders and aerial devices.

(10) Class II and Class III life safety harnesses shall be utilized for fall arrest and rappelling operations. Class III harnesses shall be used when the potential to become inverted exists.

(11) ~~((Rescue))~~ Life safety ropes shall be padded when deployed over edges or rough surfaces.

Note: See WAC ~~((296-305-05005))~~ 296-305-05113 for rope rescue applications.

AMENDATORY SECTION (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

WAC 296-305-02501 Emergency medical protection.

(1) Firefighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of ~~((NAPA))~~ the 1999 edition of NFPA 1999, Standard on Protective Clothing for Emergency Medical Operations ~~((1999, 1992 edition))~~.

Note: Prior to purchase, fire departments should request the technical data package required in the 2003 edition of NAPA 1999, ((1992 edition)) in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Firefighters shall don emergency medical gloves prior to initiating any emergency patient care.

(3) Firefighters shall don emergency medical garments and emergency medical face protection devices prior to any patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Firefighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

(5) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or his/her designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer shall follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of chapter 296-802 WAC.

(8) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; HB. vaccination requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation

of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments shall establish a records system for members health and training.

(11) Firefighters shall be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs shall have a process for monitoring firefighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments shall comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Firefighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NIOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done in accordance with chapter 296-842 WAC.

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with *Mycobacterium tuberculosis* (M. tuberculosis) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

~~((Additional References:~~

~~Chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.~~

~~WAC 296-62-08001(3), Exposure Control.))~~

NEW SECTION

WAC 296-305-03002 Hazardous materials. (1) Fire department personnel involved in hazardous materials incidents shall be protected against potential chemical hazards. Chemical protective clothing shall be selected according to the technical data package provided by the clothing manufacturer and used to protect the skin, eyes, face, hands, feet, head and body.

(2) Fire departments must select, provide, and require the use of additional personal protective equipment as required in chapter 296-842 WAC, Respiratory protection.

(3) Hazardous chemical protective equipment shall be classified by performance and is defined as:

(a) Vapor-protective suits (level A) meeting the criteria outlined in the 2000 edition of NFPA 1991, Standard on

Vapor-Protective Ensembles for Hazardous Materials Emergencies.

(b) Liquid splash-protective suits (level B) meeting the criteria outlined in the 2000 edition of NFPA 1992, Standard on Liquid Splash-Protective Ensembles and Clothing for Hazardous Materials Emergencies.

(c) CBRN terrorism incident protective ensembles and ensemble elements meeting the criteria outlined in the 2001 edition of NFPA 1994, Standard on Protective Ensembles for First Responders to CBRN Terrorism Incidents.

(4) Vapor protective ensembles, liquid splash-protective ensembles, and CBRN protective ensembles shall completely cover both the wearer and the wearer's respiratory protection unless specifically designed by the manufacturer for that type of chemical exposure.

(5) Vapor protective suits and liquid splash-protective suits shall not be used alone for any firefighting applications or for protection from radiological, biological, or cryogenic agents or in flammable or explosive atmospheres.

(6) Liquid splash-protective suits shall not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with known or suspected carcinogenicity as indicated by any one of the following documents if it can be reasonably expected that the firefighters in vapor-protective suits would be significantly better protected:

(a) Dangerous Properties of Industrial Chemicals, 10th edition-2000, N. Irving Sax.

(b) NIOSH Pocket Guide to Chemical Hazards, 2006 edition.

(c) U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), Volume 13, Hazardous Chemical Data.

(7) Liquid splash-protective suits shall not be used when operations are likely to result in significant exposure to chemicals or specific chemical mixtures with skin toxicity notations as indicated by the American Conference of Government Industrial Hygienists (ACGIH) Threshold Limit Values for Chemical Substances and Agents and Biological Exposure Indices for 2004 or 2007 if it can be reasonably expected that firefighters in vapor-protective suits would be significantly better protected.

(8) Firefighters assigned to functional support operations outside the hot zone during hazardous chemical emergencies shall be provided with and shall use personal protective garments appropriate for the type of potential chemical hazard exposure.

(9) Fire departments responding to uncontrolled release of hazardous materials must comply with chapter 296-824 WAC, Emergency response.

AMENDATORY SECTION (Amending WSR 05-20-055, filed 10/3/05, effective 12/1/05)

WAC 296-305-04001 Respiratory equipment protection. (1) Firefighter's self-contained breathing apparatus (SCBA) shall(~~(=~~

~~(a) Be pressure demand type (positive pressure);~~

~~(b) Operate in the positive pressure mode only;~~

~~(c) Have a minimum of thirty minutes service duration;~~

~~(d) Be NIOSH certified; and~~

~~(e) Meet the requirements of the 1992 or 1997 edition of NFPA, Standard on Open-Circuit Self-Contained Breathing Apparatus for Firefighters 1981)), at a minimum, meet the requirements of the 1997 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire Fighters. Equipment purchased after the effective date of this rule must meet the 2007 edition of NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus for Emergency Services.~~

(2) Closed circuit SCBA shall:

(a) Be positive pressure;

(b) Be NIOSH certified; and

(c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments shall adopt, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-842 WAC, (~~(Respirators and Part I-1, Asbestos, Tremolite, Anthophyllite, and Actinolite)) Respiratory protection~~. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection; ANSI Z88.5 - Practices for Respiratory Protection for Fire Service; various NFPA publications (1981, 1404, 1500, etc.), and the Washington State Fire Service Training Program for respiratory training and usage.

~~(5) ((When fire departments purchase compressed breathing air from a vendor, the fire department shall require the vendor to provide certification and documentation of breathing air quality as specified in subsection (21) of this section and in chapter 296-842 WAC.)) Reserved.~~

(6) When the fire department makes its own breathing air or uses vendor (~~(purchased)) supplied~~ breathing air, (~~(the air quality from compressors, cascade systems cylinders,)) they shall ((be tested at least quarterly as specified in subsection (21) of this section)) maintain documentation certifying breathing air quality. The breathing air shall:~~

~~(a) Be tested at least quarterly by using an air sample taken from the same outlet and in the same manner as the respirator breathing air cylinders are filled or air line respirators are connected.~~

~~(b) Meet the requirements of either the 2003 edition of NFPA 1989, Standard on Breathing Air Quality for Fire and Emergency Services Respiratory Protection or the 1997 edition of ANSI/CGA G6-1 - Commodity Specification for Air, with a minimum air quality of grade D.~~

~~(c) Meet a water vapor level of 24 ppm or less.~~

(7) Fit testing shall be conducted in accordance with this section and chapter 296-842 WAC, (~~(Respirators)) Respiratory protection~~.

(a) Each new member shall be tested by a qualitative or quantitative method before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only firefighters with a properly fitting facepiece shall be permitted by the fire department to function in a haz-

ardous atmosphere with SCBA. ~~((Reference WAC 296-842-18005-))~~

(c) Fit testing shall be repeated:

(i) At least once every twelve months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant physical changes in the user. Example: Weight change of ten percent or more, scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification shall not affect the normal fit of the device. Such modified devices shall only be used for fit testing.

(e) The fit test procedures and test exercises described in ~~((WAC 296-62-07162, Asbestos, Appendix C;))~~ WAC 296-842-15005 and 296-842-22010 shall be followed unless stated otherwise in this chapter.

(f) Respirator fit test records shall include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Firefighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece shall not be worn if facial hair comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If ~~((a spectacle, goggle, or face shield))~~ corrective lenses must be worn with a facepiece, ~~((#))~~ they shall be worn so as to not adversely affect the seal of the facepiece to the face. See WAC ~~((296-62-07170(2)))~~ 296-842-18005(3).

(d) Straps or temple bars shall not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) ~~((Firefighters shall be decontaminated prior to removal of respirators))~~ Gross/field decontamination shall be performed on firefighters prior to removal of their respirator whenever firefighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment shall be available and used by all firefighters who enter into hazardous atmospheres during structural firefighting activities.

~~((Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute minimum capacity positive pressure escape bottle.~~

~~((a) If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.~~

~~((b) The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.))~~ Reserved.

(12) Respirators shall be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous(~~(#)~~).

Reference: See WAC 296-305-05002(13) for additional requirements.

~~((Anytime firefighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.))~~ Reserved.

(14) Firefighters using a properly functioning SCBA shall not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(15) Firefighters shall receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training shall include:

(a) Recognizing hazards that may be encountered;

(b) Understanding the components of the respirator;

(c) Understanding the safety features and limitations of the respirator; and

(d) Donning and doffing the respirator.

(16) After completing such training, each firefighter shall practice at least quarterly, for each type and manufacturer of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(17) Members shall be tested at least annually on the knowledge of respiratory protection equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records shall remain part of the member training file.

(18) Members shall be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

(19) In cases where there is a reported failure of a respirator, it shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) Firefighters shall be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(21) ~~((Compressed gaseous breathing air in the SCBA cylinder shall meet the requirements of ANSI/CGA G7.1—Commodity Specification for Air, with a minimum air quality of grade D, as well as meeting a water vapor level of 24 ppm or less.))~~ Reserved.

(22) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

~~((Additional reference: Chapter 296-842 WAC.))~~

AMENDATORY SECTION (Amending WSR 05-17-059, filed 8/10/05, effective 10/1/05)

WAC 296-305-04501 Automotive fire apparatus design and construction. (1) All new fire apparatus with the exception of specialized equipment, shall conform to the following minimum safety standards contained in ~~((NFPA Booklets No. 1901, 1902, 1903, 1904, and other 1900's))~~ the 2003 edition of NFPA 1901, Standard for Automotive Fire Apparatus.

(2) Used fire apparatus, purchased after ~~((December 17, 1977))~~ the effective date of this rule, weighing 10,000 pounds or more shall conform with the following U.S. Department of Transportation standards, when applicable:

(a) 49 CFR Ch. V ~~((10-93))~~ 10-03 edition) 571.121 "Air brake systems";

(b) 49 CFR Ch. V ~~((10-93))~~ 10-03 edition) 571.106 ~~((Hydraulic))~~ Brake hoses";

(c) 49 CFR Ch. V ~~((10-93))~~ 10-03 edition) ~~((571-211))~~ 571-103 "Hydraulic brake (hoses) systems."

(3) Employers acquiring used apparatus or used equipment shall not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and chapter 296-865 WAC, Motor vehicles.

(4) Fire apparatus tailboards and steps shall have a non-skid rough surface.

(5) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to minimize the exposure of the firefighter to the exhaust gases and fumes.

(6) Spinner knobs shall not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, shall have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(10) All hoses and equipment shall be secured to prevent unintentional or inadvertent deployment.

(11) Fire departments that purchase nonmotorized equipment to be used in emergency response situations on all roadways must comply with Title 46 RCW, Motor vehicles.

AMENDATORY SECTION (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

WAC 296-305-04503 Automotive fire apparatus equipment. (1) Vehicles used to transport firefighters and employer representatives shall have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, equipment with sharp points and edges shall be covered to prevent injury to firefighters and employer representatives.

(2) Personnel restraints for traveling.

(a) All persons riding on fire apparatus shall be seated and secured to the vehicle by ~~((seatbelts))~~ seat belts or safety harnesses at any time the vehicle is in motion.

(b) ~~((Seatbelts))~~ Seat belts shall comply with U.S. Department of Transportation Part 49 CFR Section 571, Standards 209 and 210.

(c) Riding on tailsteps or in any other exposed position such as sidesteps or running boards shall be specifically prohibited.

(d) Standing while riding shall be specifically prohibited.

(e) Members actively performing necessary emergency medical care while the vehicle is in motion shall be restrained to the extent consistent with the effective provision of such emergency medical care. All other persons in the vehicle shall be seated and belted in approved seating positions while the vehicle is in motion.

(f) Fire departments permitting hose loading operations while the vehicle is in motion shall develop a written policy and guidelines addressing all safety aspects.

Note: Policy and operating guidelines should address:

- The assigning of a member as a safety observer who should have an unobstructed view of the hose loading operation and be in visual and voice contact with the driver.
- Allowed maximum fire apparatus speed when hose loading;
- Control of nonfire department vehicular traffic; and
- Allowing members in the hose bed, but limit standing to only when the vehicle is not moving.

Note: See WAC ~~((296-305-0701))~~ 296-305-0701(3) for exceptions for wildland vehicles.

(3) Each fire apparatus shall carry a current U.S. Department of Transportation ~~((chemical identification book or the equivalent))~~ Emergency Response Guidebook.

(4) Ladders stowed on the sides of apparatus, which protrude past the tailboard, shall have guards over the protruding ends.

(5) No employer shall permit automotive fire apparatus equipment which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-04505 Automotive apparatus operational rules. (1) Each employer of staffed fire apparatus shall establish a written policy and procedure whereby the apparatus has a scheduled daily operational check. Each employer of unstaffed fire apparatus shall establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair shall be reported immediately to the officer in charge or other appropriate person.

(3) Firefighting apparatus shall be brought to a full stop before employees are allowed to step from the apparatus.

(4) Firefighters shall not be in the apparatus hose bed while hose is being run out from the bed.

(5) Headlights shall be on at all times when any fire or emergency vehicle is responding to a call.

(6) All apparatus over 20,000 pounds (gross vehicle weight) shall utilize wheel blocks when parked at an emergency scene.

(7) Apparatus responding to alarms shall meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.

(8) All operators of emergency vehicles shall be trained in the operations of apparatus before they are designated as drivers of such apparatus. The training program shall be established by each fire department. Once trained, all operators shall familiarize themselves with any apparatus prior to operating such apparatus even for brief periods of time.

Additional Reference: Washington ((~~State Fire Protection Bureau~~) Fire Chiefs - Emergency Vehicle ((~~Accident~~) Incident Prevention ((~~EVAP~~) EVIP) program.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-04507 Fire apparatus maintenance and repair. (1) If at any time a fire apparatus is found to be in an unsafe condition, it shall be reported immediately to the officer on duty.

(2) If in the officer's determination, the apparatus cannot be used in a safe manner, it shall be taken out of service until it has been restored to a safe operating condition.

(3) All repairs ~~((and preventive maintenance to fire apparatus shall only be made by personnel deemed qualified by the registered owners of the fire apparatus))~~ to the suppression components of emergency vehicles of the fire department shall be done by an emergency vehicle technician, ASC certified technician or factory qualified individual. Repairs, maintenance or routine work to nonsuppression systems of suppression apparatus or other fire department vehicles and their equipment shall be done by personnel qualified in the specific area of repair.

(a) A preventive maintenance program shall be instituted and records maintained for each individual apparatus in order to record and track potential or on-going problems.

(b) ~~((A minimum annual service test of apparatus shall be made according to NFPA guidelines relating to pumper apparatus.~~

~~((e) Failure of any portion of the annual service test shall constitute the apparatus to be placed out of service as a pumper until adequate repairs are made and the apparatus successfully completes said tests.))~~ Apparatus shall be maintained and tested in accordance with the manufacturer's recommendations.

Note: Qualifications for persons working on emergency response vehicles can be found in the 2000 edition of NFPA 1071, Standard for Emergency Vehicle Technician Professional Qualification, A.1.1 and A.2.1.

NEW SECTION

WAC 296-305-04510 Aerial apparatus. (1) All new aerial devices shall be constructed and initially tested in accordance with the 2003 edition of NFPA 1901, Standard for Automotive Apparatus.

(2) All aerial devices shall be operated in accordance with the manufacturer's recommendations.

(3) All aerial devices shall be maintained, tested and repaired in accordance with the manufacturer's instructions and nonconflicting portions of the 2002 edition of NFPA 1911, Standard for the Inspection, Maintenance, Testing and Retirement of In-Service Automotive Fire Apparatus.

(a) All devices, as well as the section of the apparatus which supports the turntable, shall be inspected at least once every year.

(b) All devices, as well as the section of the apparatus which supports the turntable, shall be nondestructively tested by a certified testing agency every five years.

(c) After any accident that causes structural damage, testing shall be performed and all defects corrected before the apparatus is returned to service.

(4) Aerial devices shall be used according to the following requirements:

(i) The number of firefighters permitted on aerial devices shall be in accordance with the manufacturer's instructions.

(b) Aerial devices shall not be positioned under dangerous cornices or other loose overhanging objects that may endanger firefighters and personnel working from or climbing the ladders, except where rescue operations are essential.

(c) When working near energized electrical lines, the following minimum working clearances for all equipment and personnel shall be observed:

(i) For lines rated 50 kv or below, the minimum clearance between the lines and any part of the equipment shall be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance shall be ten feet plus 0.4 inch (1 cm) for each 1 kv.

(iii) For low voltage lines (operating at 600 volts or less), the work shall be performed in a manner to prevent the firefighters or equipment from contacting the energized conductor.

(d) Fire apparatus aerial devices shall be positioned for the greatest stability feasible at the fire scene.

(e) The tip of the aerial device shall not be forcefully extended against a solid structure.

(f) Aerial ladders shall not be extended or retracted while firefighters are climbing the ladder.

(g) Locking in shall not be permitted. If it is necessary for firefighters to be positioned on the aerial device, they shall be secured by at least a class I safety belt (ladder belt).

(h) Ladder pipes, when in use, shall be secured to the aerial in such a manner so that the ladder pipe cannot accidentally be dislodged while in operation.

(i) The operator of an aerial device shall remain on the turntable whenever firefighters are working from the aerial. If the aerial device is used only as a ground ladder, no operator is needed on the turntable.

(5) The following shall regulate the design and use of the operating turntable and aerial device:

(a) Ladders shall have nonskid protection on the rungs.

(b) Turntable controls and valves for rotating, extending or elevating the aerial device shall be clearly and distinctly marked as to function.

(c) Aerial controls shall be spring loaded and have a safety catch so that the controls shall return to the neutral position if the operator is incapacitated.

(d) The operator of the aerial device shall be provided with a nonskid surface on the turntable.

(e) A railing of approximately forty-four inches in height, and if possible, not less than thirty-six inches in length, shall be installed on the turntable in back of the operator's position.

(f) A spotlight of not less than 75,000 candlepower (950,000 lumens) or a floodlight with not less than 850 cp (10,500 lumens) shall be provided at the base to illuminate the aerial device at night in any position of operation.

(6) The following shall regulate the communication systems on the aerial devices and on the automotive fire apparatus:

(a) A two-way voice communication system shall be installed between the top fly of the ladder or platform and the lower control station.

(b) There shall be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver. The apparatus shall not be moved unless the proper signal, as shown in Appendix E, is received from the tillerman.

(7) The automotive fire apparatus used in conjunction with aerial devices shall be used according to the following:

(a) Ground jacks or outriggers shall be deployed before an aerial device is put into operation.

(b) Ground plates shall be deployed under the outriggers or jacks at all times.

(c) Hand, airbrakes, and spring brakes shall be set whenever an aerial device is in operation.

(d) In addition to ground jack supports and outriggers, wheel chocks shall be used whenever the aerial device is in operation.

(e) Wheel chocks shall be rated by the manufacturer of the chock for the apparatus it is to be used on.

(f) Sand shall be put under jacks, outriggers, and ground plates when operating on ice or snow.

(8) Railings on elevated platforms shall be constructed so that there is no opening greater than twenty-four inches below them.

(9) A plate shall be located at the aerial device control units, clearly visible to the operator at the lower control position, listing the following information:

(a) Model and serial number of the manufacturer.

(b) Rated capacity of the platform.

(c) Operating pressure of the hydraulic and pneumatic systems.

(d) Cautions or restrictions of operation.

(e) Control instructions.

NEW SECTION

WAC 296-305-05000 Incident management. (1) The fire department shall establish an incident management system (IMS) consistent with the U.S. Department of Homeland Security National Incident Management System (NIMS) with written guidelines applying to all members involved in emergency operations.

(a) All members involved in emergency operations shall be trained in the IMS system.

(b) Personnel shall be trained and qualified by their department in the incident command system (ICS) that meets the requirements of NIMS prior to taking a role at an emergency scene.

(c) The incident management system shall be applied to drills, exercises, and other situations that involve hazards similar to those encountered at actual emergency incidents and to simulated incidents that are conducted for training and familiarization purposes.

(2) At all emergency incidents, the incident commander shall be responsible for the overall safety of all members and all activities occurring at the scene.

(3) All emergency incidents shall be managed by an ICS; the incident commander shall establish an organization with sufficient supervisory personnel to control the position and function of all members operating at the scene and to ensure that safety requirements are satisfied.

(4) At all emergency incidents, the incident commander shall have the responsibility to:

(a) Assume and confirm command and take an effective fixed physical command position.

(b) Perform situation evaluation that includes risk assessment.

(c) Initiate, maintain, and control incident communication.

(d) Develop an overall strategy and incident action plan.

(e) Develop an effective ICS organization by managing resources, maintaining an effective span of control, and maintaining direct supervision over the entire incident by creating geographical and/or functional area supervisors as appropriate for the scope and size of the incident.

(f) Review, evaluate, and revise the incident action plan as required.

(g) Continue, transfer, and terminate command.

(5) The fire department shall develop a risk management policy including rules of engagement that can be used by the incident commander in the development of incident strategies. The risk management policy should include direction and guidance to the incident commander in formulating incident planning relating to the level of risk that may be under-

taken in any given incident to save lives and property in as safe a manner as dictated by the situation.

(6) The fire department shall establish an accountability system: Written procedures and guidelines for tracking all members operating at emergency incidents.

(7) The incident commander shall provide for control of access to hazardous areas of the incident scene. Procedures shall identify methods for identification of hazardous areas and communication of necessary protective equipment and other protective measures necessary to operate in the hazardous area.

(a) Control zones shall be established at emergency incidents.

(b) The perimeters of the control zones shall be designated by the incident commander and communicated to all members.

(c) If the perimeters of the control zones change during the course of the incident, these changes shall be communicated to all members on the scene.

(d) Hazard control zones shall be designated as hot, warm, cold and exclusion zones.

(e) All members shall wear the PPE (SCBA, flash hood, etc.) appropriate for the risks that might be encountered while in the hot zone.

(f) All members operating within the hot zone shall have an assigned task.

(g) No unauthorized personnel shall enter an exclusion zone that was designated due to the presence of imminent hazard(s) or the need to protect evidence.

(8) Firefighters operating in a hot zone shall operate in teams of two or more regardless of rank or assignment. Members of these teams shall be in constant communication with each other through touch, visual, or voice means in order to provide assistance in case of emergency.

(9) The fire department shall provide personnel for the rescue of members operating at emergency incidents as the need arises.

(10) The fire department shall develop and maintain written guidelines for the safety of members at incidents that involve violence, unrest, or civil disturbance. Such situations may include, but not be limited to, riots, fights, violent crimes, drug related situations, family disturbances, deranged individuals, and people interfering with fire department operations.

(11) When members are operating at an emergency incident and their assignment places them in potential conflict with motor vehicle traffic, all efforts shall be made to protect the members.

Note: Chapters 6H and 6I of the Manual on Uniform Traffic Control Devices, 2003 edition revision 1, provides information on how to set up traffic control zones during emergency operations on different types of roadways. This information can be accessed for free at the following link: <http://muted.fhwa.dot.gov/pdfs/2003r1/pdf-index.htm>.

(12) U.S. Coast Guard-approved personal flotation devices shall be provided to all emergency personnel at incidents where drowning is a possibility unless it can be shown that conditions, such as shallow water, are such that flotation would not be achieved.

(13) Responders shall not manipulate equipment that they have not been trained or equipped to use.

(14) In the event a firefighter becomes lost, trapped, seriously injured, has a medical emergency, has exhausted their breathing air, or finds themselves in any other form of life threatening situation they shall immediately call for help, using the nationally adopted term "Mayday" to declare that an emergency situation now exists. The fire department shall specifically establish and routinely practice standard procedures for managing a Mayday situation.

(15) Emergency scene communications.

(a) Incident radio communication shall use clear text terminology.

(b) Incident communication shall use the phrase "emergency traffic" as the standard alert for all units operating on the scene to clear the air.

(c) The fire department shall specifically establish and routinely practice standard procedures for managing an "emergency traffic" situation.

Note: The fire department communication center should start an incident clock when the first arriving unit is on scene of a working structure fire or when conditions appear to be time sensitive or dangerous. The dispatch center should notify the incident commander, at an interval established by their policy or procedure, until incident stabilization is achieved.

NEW SECTION

WAC 296-305-05002 Fire suppression. (1) Before beginning interior structural firefighting operations, the incident commander must evaluate the situation and risks to operating teams.

(2) The "initial stages" of an incident shall encompass the tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

(3) In the initial stages of an incident where only one crew is operating in the hot zone at a working structural fire, a minimum of four individuals shall be required, consisting of two individuals working as a crew in the hot zone and two individuals present outside the hot zone available for assistance or rescue of firefighters during emergency operations where entry into the hot zone is required.

(4) Initial attack operations shall be organized to ensure that if, on arrival at the emergency scene, responders find a known rescue situation where immediate action could prevent the loss of life or serious injury, such action shall only be permitted when no less than three personnel (2-in/1-out) are present and equipped to provide emergency assistance or rescue of the team entering the hot zone.

No exception shall be allowed when there is no possibility to save lives or no "known" viable victims.

(5) Firefighters must not engage in interior structural firefighting in the absence of at least two standby firefighters (2-in/2-out) except as provided in WAC 296-305-05002(4).

(6) Standby team members shall comply with the following:

(a) Members shall remain aware of the status of firefighters in the hot zone.

(b) Members shall remain in positive communication (radio, visual, voice or signal line) with the entry team, in full

protective clothing with respiratory protection donned while in standby mode.

(c) Only one standby team member may be permitted to perform other duties outside the hot zone, provided constant communication is maintained with the team in the hot zone, and provided that those duties will not interfere with his or her ability to initiate a rescue as appropriate.

(d) No standby team members shall be permitted to serve as a standby member of the firefighting crew when the other activities in which the firefighter is engaged inhibit the firefighter's ability to assist in or perform firefighter rescue or are of such importance that they cannot be abandoned without placing other firefighters in danger.

Note: Nothing in this section shall prevent actions which may reasonably be taken by members first on the scene to determine the nature and extent of fire involvement.

(7) Once a second crew arrives at the hot zone, the incident shall no longer be considered to be in the "initial stage," and at least one rapid intervention crew should be assigned. For further guidance, see nonmandatory Appendix D.

(8) Teams in the hot zone shall have positive communication capabilities with the incident command structure in place. Incident radio communication capabilities within the incident management structure shall include monitoring the incident-assigned frequencies (including mutual aid radio frequencies).

(9) Officers at emergency scenes shall maintain an awareness of the physical condition of members operating within their span of control and ensure that adequate steps are taken to provide for their safety and health. The command structure shall be utilized to request relief and reassignment of fatigued crews.

(10) Personal protective clothing/equipment designed for wildfire suppression shall not be used for interior structural firefighting.

(11) Firefighters shall not cut the electrical drip loop providing power to the structure nor pull the electrical meter.

(12) Prior to overhaul, buildings shall be surveyed for possible safety and health hazards. Firefighters shall be informed of hazards observed during the survey and measures shall be taken to protect firefighters from these hazards.

(13) Self-contained breathing apparatus (SCBA) shall be worn through overhaul. SCBA shall also be worn during activities taking place in the hot zone after overhaul unless the officer in charge conducts an exposure evaluation to determine or reasonably estimate whether an employee is or could be exposed to either an airborne contaminant above a permissible exposure limit (PEL) listed in WAC 296-841-20025 Table 3 or other airborne hazards, such as biological/radiological/nuclear hazards. When the officer in charge cannot determine or reasonably estimate employee exposure they shall conclude that an atmosphere is immediately dangerous to life or health (IDLH).

(14) During the overhaul phase officers shall identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent rekindle.

(15) Prior to removing firefighting ensembles worn in the hot zone, a gross decontamination shall be performed to remove potentially harmful contaminants.

(16) Members of the department conducting post-fire investigations must comply with subsections (12) through (15) of this section.

NEW SECTION

WAC 296-305-05004 Occupational exposure to heat and cold stress. (1) Fire departments shall develop written guidelines that outline a systematic approach for the rehabilitation of members operating at incidents and training exercises. The following components must be included in this guideline:

(a) Supervisor's role in identifying climate conditions (hot or cold).

(b) The signs and symptoms of heat or cold stress and how to identify them in subordinates and fellow members.

(c) How to identify the climatic condition likely to produce heat or cold stress on members operating at emergency scenes or during training exercises.

(d) What steps the incident commander (IC) must take when the climatic condition poses a heat or cold stress hazard to members.

(e) What rest-to-work (recovery) schedule the IC must consider during climatic conditions that present a heat or cold stress hazard to members.

Example: NFPA 1584 states that after members use 2 30-minute SCBA bottles or 1 45-to-60-minute SCBA bottle or 40 minutes strenuous work without an SCBA the member should go to rehabilitation for a 10 to 20 minute rest and rehydrate.

(f) Which active or passive cooling and warming techniques will be used based on the incident type and climatic condition.

(g) What rehydration schedule will be followed, including the amount and type of fluids.

(h) What the department will do to ensure caloric replacement and electrolyte replacement during longer term emergencies and exercises.

(i) What medical monitoring will be provided to members in rehabilitation and what criteria will be used to release members from rehabilitation.

(j) What the IC will do when a member is showing signs of heat or cold stress after completing the department's rest-to-work cycle.

(k) What medical personnel will be present in rehabilitation to evaluate members sent to rehabilitation during the rest-to-work cycle.

To determine what temperature triggers action at each worksite, select the general type of clothing or personal protective equipment each employee is required to wear and find the corresponding temperature in Table 1.

Table 1

Outdoor Temperature Action Levels

Nonbreathing clothing including vapor-barrier clothing or chemical resistant suits	52°
Double-layer woven clothing including coveralls, jackets and sweatshirts	77°
All other clothing	89°

Note: There is no requirement to maintain temperature records. The temperatures in Table 1 were developed based on Washington state data and are not applicable in other states.

(2) Employee training. Training on the following topics must be provided to all employees who may be exposed to outdoor heat at or above the temperatures listed in Table 1:

(a) The environmental factors that contribute to the risk of heat-related illness.

(b) General awareness of personal factors that may increase susceptibility to heat-related illness including, but not limited to, an individual's age, degree of acclimatization, medical conditions, drinking water consumption, alcohol use, caffeine use, nicotine use, and use of medications that affect the body's responses to heat. This information is for the employee's personal use.

(c) The importance of removing heat-retaining personal protective equipment such as nonbreathable chemical resistant clothing during all breaks.

(d) The importance of frequent consumption of small quantities of drinking water or other acceptable beverages.

(e) The importance of acclimatization.

(f) The different types of heat-related illness and their common signs and symptoms.

(g) The importance of immediately reporting signs or symptoms of heat-related illness in either themselves or in coworkers to the person in charge and the procedures the employee must follow including appropriate emergency response procedures.

(3) Supervisor training. Prior to supervising employees working in outdoor environments with heat exposure at or above the temperature levels listed in Table 1, supervisors must have training on the following topics:

(a) The information required to be provided to employees listed in subsection (1) of this section.

(b) The procedures the supervisor must follow to implement the applicable provisions of this section.

(c) The procedures the supervisor must follow if an employee exhibits signs or symptoms consistent with possible heat-related illness, including appropriate emergency response procedures.

(d) Procedures for moving or transporting an employee to a place where the employee can be reached by an emergency medical service provider if necessary.

(4) The fire department shall rotate crews as necessary to allow for rehabilitation.

(5) All members shall be provided training and information on how the body regulates core temperatures and how to recognize the signs, symptoms and controls for heat and cold stress.

(6) All members shall be provided training on the department's guideline addressing heat and cold stress.

(7) Employees are responsible for monitoring their own personal factors for heat-related illness including consumption of water or other acceptable beverages to ensure hydration.

(8) A rehabilitation area shall be designated with features that provide shade or air conditioning with a place to sit for extremely hot environments.

(9) A rehabilitation area shall be designated with features that provide dry protected areas out of the wind or rain and a

heated area with a place to sit for extremely cold or wet environments.

(10) Multiple rehabilitation areas must be set up if the geographical area or size of the scene creates barriers limiting members' access to rehabilitation.

(11) The rehabilitation area shall be of sufficient size to accommodate the number of crews using the area at the same time.

(12) Members entering the rehabilitation area that feel warm or hot shall remove their personal protective clothing. Personnel trained in basic life support shall evaluate the member and institute active or passive cooling as indicated.

(13) At a minimum, a person trained in basic life support with the knowledge and training needed shall be located in the rehabilitation area to conduct medical monitoring and evaluation of crews entering the rehabilitation area.

(14) Members shall not be released from rehabilitation until a person trained in basic life support okays their return to work.

(15) Supervisors shall assess their crew at least every forty-five minutes and more frequently when climatic conditions warrant to determine their need for rehabilitation.

(16) Members on emergency scenes and during exercises shall be provided a minimum of one quart of water per hour when the climatic conditions present heat or cold stress hazards. After one hour, caloric and electrolyte replacement must be considered.

(a) Employers must ensure that a sufficient quantity of drinking water is readily accessible to employees at all times.

(b) Employers must ensure that all employees have the opportunity to drink at least one quart of drinking water per hour.

(c) Employers must encourage employees to frequently consume water or other acceptable beverages to ensure hydration.

(17) Employees showing signs or complaining of symptoms of heat-related illness must be relieved from duty, provided with a sufficient means to reduce body temperature, and monitored to determine whether medical attention is necessary.

Note: For further guidance, sample policies and information please consult the 2008 edition of NFPA 1584, Standard on the Rehabilitation Process for Members During Emergency Operations and Training Exercises or the United States Fire Administration's Emergency Incident Rehabilitation Manual FA-314 issued February 2008.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-05013 Aircraft rescue and firefighting. (~~Fire departments that engage in aircraft rescue and firefighting operations shall review NFPA, Manual for Aircraft Rescue and Firefighting Operations 402M, 1991 edition.~~)

(1) Fire departments that expect to respond to aircraft fires shall meet the applicable portions of the 2008 edition of NFPA 402, Guide for Aircraft Rescue and Firefighting Operations.

(2) Airport based fire departments shall meet the applicable portions of the 2008 edition of the NFPA 402, Guide to Aircraft Rescue and Firefighting Operations.

NEW SECTION

WAC 296-305-05101 Technical rescue general requirements. (1) Written standard operating procedures shall be established consistent with the following levels:

- Awareness level. This level represents the minimum capability of organizations that provide response to technical rescue incidents.
- Operations level. This level represents the capability of organizations to respond to technical rescue incidents and to identify hazards, use equipment, and apply limited techniques specified in this rule to support and participate in technical rescue incidents.
- Technician level. This level represents the capability of organizations to respond to technical rescue incidents, to identify hazards, use equipment, and apply advanced techniques specified in this rule necessary to coordinate, perform, and supervise technical rescue incidents.

(2) Members shall not operate at a level that exceeds the identified level of capability established in subsection (1) of this section.

(3) Basic life support shall be provided by the fire department at technical rescue incidents.

(4) Fire departments must meet all requirements in this section, along with all relevant requirements in the specific technical rescue sections, before operating at the operations or technician level at a technical rescue incident.

NEW SECTION

WAC 296-305-05103 Technical rescue training. (1) Training shall be provided to correspond to the operational level of the fire department. All fire departments shall be trained to the awareness level; members which will be expected to perform at a higher operational level shall be trained to that level. The 2008 edition of NFPA 1006, Standard for Technical Rescuer Professional Qualifications outlines the minimum individual Job Performance Requirements for Level I (Operations) and Level II (Technician) rescuers.

(2) Continuing education necessary to maintain all requirements of the level of capability shall be provided by the fire department.

(3) The training program shall be evaluated annually to ensure the fire department is prepared to function at the established operational level.

(4) All required training shall be documented. Documentation shall be maintained and available for inspection by employees, their representatives, and the department of labor and industries.

NEW SECTION

WAC 296-305-05105 Technical rescue standard operating procedure. Fire departments that choose to operate at the awareness level for technical rescue incidents shall establish written procedures outlining the operational level of their department that are specific to their chosen level of response.

NEW SECTION

WAC 296-305-05107 Technical rescue incident response planning. (1) Fire departments that choose to operate at the operations level or above shall create a written special operations incident response plan for the specific type(s) of technical rescue at which they plan to operate at or above the operations level.

(2) When external resources may be required, procedures for acquisition of external resources needed for technical rescue incidents shall be developed.

(3) Fire departments that choose to respond to chemical, biological, radiological, and nuclear (CBRN) incidents shall provide training and equipment to all members expected to respond.

NEW SECTION

WAC 296-305-05109 Technical rescue equipment.

(1) Equipment.

(a) Equipment necessary for operations at technical rescue incidents, along with training exercises, shall be provided by the fire department.

(b) Training shall be provided to ensure that all equipment is used and maintained according to the manufacturer's instructions.

(2) Personal protective equipment (PPE) specific to technical rescue.

(a) Departments will provide, at no cost to employees, protective clothing and equipment to provide protection from the specific hazards to which they could be exposed.

(b) Employees must be trained in the care, use, inspection, maintenance and limitations of the protective clothing and equipment.

(c) Employees are required to wear the protective clothing and equipment provided by the department's procedures and guidelines.

NEW SECTION

WAC 296-305-05111 Technical rescue safety. (1) General.

(a) All employees must be trained on:

(i) The hazards and risks associated with department's chosen level of technical rescue operations.

(ii) How to conduct technical rescue operations at the department's chosen level while minimizing threats to rescuers.

(iii) How to use PPE.

(b) Employees assigned specific duties and functions must be trained and qualified by their department prior to being assigned those duties or functions.

(c) When employees are operating in positions or performing functions that pose a high potential risk for injury, employees qualified in basic life support must be standing by.

(2) Emergency evacuation. Departments shall establish a procedure for members to abandon the technical rescue area and to account for their safety when an imminent hazard condition is discovered. This shall include a method for notifying all members in the affected area immediately.

(3) Technical rescue safety officer. The incident commander shall assign a safety officer with the specific knowledge and responsibility for the identification, evaluation, and with the authority to correct hazardous conditions and unsafe practices, at all emergency scene operations and training exercises.

(4) Incident management. Departments shall use an ICS at all technical rescue incidents and training exercises.

NEW SECTION

WAC 296-305-05113 Technical rescue operational specialties. (1) Structural collapse. Organizations choosing to operate at the awareness, operations or technician level for structural collapse incidents must meet the requirements found in chapter 5 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(2) Rope rescue.

(a) Organizations choosing to operate at the awareness, operations or technician level for rope rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 6 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Organizations performing rope rescue operations must make sure previously purchased life safety ropes and equipment complies with the 2001 edition of NFPA 1983, Standard on Fire Service Life Safety Rope and System Components. Ropes and equipment purchased after the effective date of this rule must meet the requirements of the 2006 edition of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services.

(c) Ropes used to support the weight of members or other persons during rescue, firefighting, other emergency operations, or during training evolutions shall be life safety rope.

(d) Life safety rope used for training or rescue at fires or other emergency incidents shall be permitted to be reused if inspected before and after each such use in accordance with the manufacturer's instructions and provided:

(i) The rope has not been visually damaged by the exposure to heat, direct flame impingement, chemical exposure, or abrasion.

(ii) The rope has not been subjected to any impact load.

(iii) The rope has not been exposed to chemical liquids, solids, gases, mists, or vapors of any materials, known to deteriorate rope.

(iv) If the rope used for training or rescue at fires or other emergency incidents has been subjected to (i), (ii), or (iii) of this subsection, or fails the visual inspection, it shall be removed from service as a life safety rope.

(v) If there is any question regarding the serviceability of the rope after consideration of the above, the safe course of action shall be taken and the rope shall be placed out of service.

Note: The destruction of a rope means that it shall be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This includes disposal or removal of labels and cutting into short lengths to be used for utility purposes.

(vi) Rope inspection shall be conducted by qualified inspectors in accordance with procedures established and recommended as adequate by the rope manufacturer to assure rope is suitable for reuse.

(vii) Life safety rope and rope rescue equipment shall be inspected after purchase and prior to placing in service, after each use, and at least semiannually.

(viii) Harnesses shall be inspected for worn or broken stitching, rivets worn out of holes, and damage from abrasion, cuts, or chemicals.

(ix) Descending/ascending hardware shall be inspected for wear, cracks, distortion, sharp edges, and ease of operation.

(x) Equipment showing damage or wear that can affect employee safety, shall be either repaired prior to further use or retired.

(e) Records shall provide a history of each life safety and training rope. The minimum information to be reflected in the record of history of life safety and training ropes shall include: Date of manufacturer, organization serial number, type of use, date of use, date of inspection, inspectors name and space for comments.

(f) All repairs to life safety harnesses and belts shall be done by an authorized manufacturer's representative, or the manufacturer.

(g) Ladder belts at a minimum shall be used for firefighter attachment to ladders and aerial devices.

(h) Class II and Class III life safety harnesses shall be utilized for fall protection and rappelling operations. Class III harnesses shall be used for fall arrest and when the potential to become inverted exists.

(i) Life safety ropes shall be padded when deployed over edges or rough surfaces.

(j) The manufacturer's recommended shelf life of life safety ropes shall be followed. If no shelf life is specified, ropes greater than six years old shall be taken out of service as a life safety rope.

(3) Confined space rescue.

(a) Organizations choosing to operate at the awareness, operations or technician level for confined space rescue incidents must meet the requirements found in chapter 296-809 WAC and the nonconflicting sections of chapter 7 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Fire departments shall comply with chapter 296-809 WAC, for their own confined spaces.

(c) Fire departments which will respond to calls to perform rescue from a noncontracted permit-required confined space are required to have each member of a rescue team practice making permit space rescues at least every twelve months by means of simulated rescue operations in which they remove dummies, mannequins or actual persons from permit space. A permit is required for the practice permit space entry.

(d) During an actual rescue response, written or verbally recorded hazard sizeup will be allowed in lieu of the written permit requirements in WAC 296-809-50004 and shall be completed prior to any entry. This sizeup shall include at a minimum:

(i) Recognition and declaration of the situation as a confined space incident.

(ii) Denial of entry to unprotected persons.

(iii) Assessment of all readily available confined space documentation, e.g., MSDSs, any existing permit, plans or blueprints of the space.

(iv) Assessment of number of victim(s), locations and injury conditions.

(v) Discussion with witnesses, supervisors, and other sources of information.

(vi) Assessment of any current or potential space hazards, in particular, any hazard(s) which lead to the necessary rescue.

(vii) Determination and declaration if the situation is a body recovery or a victim rescue.

(e) At confined space incidents, at least two people outside shall be equipped with appropriate breathing apparatus to act as the back-up team, which shall remain free of the contaminated area in order to rescue disabled firefighters.

(f) Written documentation of the rescue team's training on the fire department's confined space operating procedures, authorized entrant training, and the contracted host's confined space program shall be kept. A record of each of the hazard sizeups shall be maintained for at least one year.

(g) Anytime firefighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(i) If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.

(ii) The maximum length of hose for supplied air respirators is three hundred feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(4) Machinery rescue. Organizations choosing to operate at the awareness, operations or technician level for machinery rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 12 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(5) Water rescue.

(a) Organizations choosing to operate at the awareness, operations or technician level for water rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 9 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Organizations choosing to operate at the operations or technician level for dive rescue incidents must meet the requirements found in chapter 296-37 WAC, Standards for commercial diving operations, and the nonconflicting parts of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(c) If a manufacturer's specifications are such that an engineer is required for the operation of a vessel, one shall be provided.

(d) When fire boats perform rescue activities they shall have two dedicated personnel. Any member not specifically required to operate the vessel, e.g., an operator (pilot) or engineer (if required by the manufacturer's specification) may be used as a deck hand. This may include the boat officer if his/her duties do not include operating the fire boat.

(e) Watercraft load capabilities shall not exceed the manufacturer's specifications.

(f) Each fire department shall determine the function of their watercraft; firefighting, rescue, or both.

(g) Watercraft operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall comply with all of the rules of the United States Coast Guard.

(h) Fire boats operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall have a fully dedicated pilot.

(i) The operator (pilot) of the watercraft is responsible for its safe operation.

(j) Training for all personnel shall cover the physical characteristics of the vessel involved and shall be included in the employer's accident prevention program.

(i) All assigned personnel shall be trained in safe operation of watercraft and the operations the craft is intended to perform.

(ii) All employees involved in water rescue shall be trained in water rescue techniques and wear Coast Guard approved personal flotation devices, Type III, minimum.

Exception: Employees working below deck or in enclosed cabins.

(k) All employers operating watercraft in nonnavigable waters shall be responsible for training all employees to local hazards.

(6) Trench and excavation rescue.

(a) Organizations choosing to operate at the awareness, operations or technician level for trench and excavation rescue incidents must meet the requirements of this section and nonconflicting portions of chapter 11 of the 2009 edition of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents.

(b) Employees that directly engage in trench rescue operations shall be under the direct supervision of person(s) with adequate training in trench and excavation hazard recognition, equipment use and operational techniques.

(c) Each employee in an excavation shall be protected from cave-ins by an adequate protective system except when:

(i) Excavations are made entirely in stable rock; or

(ii) Excavations are less than four feet (1.22 meters) in depth and examination of the ground by a competent person provides no indication of a potential cave-in.

(7) Mine and tunnel rescue.

(a) Organizations choosing to operate at the awareness, operations or technician level for mine and tunnel rescue incidents must meet the requirements of this section and the nonconflicting portions of chapter 14 (Mine and Tunnel Search and Rescue) of the 2009 edition of NFPA 1670, Stan-

dard on Operations and Training for Technical Rescue Incidents.

(b) The requirements of this section shall apply to agencies that provide varying degrees of response to tunnels under construction or other underground excavations formerly classified as mines or tunnels.

(c) The requirements of this section shall not apply to operating mines, tourist mines, basements, or subterranean structures that are complete and in use or that meet the definition of a confined space.

(d) Emergency services that are the designated primary provider of rescue services for operational mines and tunnels under construction are required to comply with the nonconflicting portions of chapter 296-155 WAC Part Q, Underground construction.

(e) Members who regularly enter a tunnel under construction as part of their regular duties shall receive training meeting the requirements of the safety instruction required by WAC 296-155-730(3).

(f) Regardless of whether an atmospheric hazard is detected, any entrant into a tunnel under construction, mine or any related shaft or excavation shall have a means of emergency egress respiratory protection with no less than a thirty minute rated service life immediately available. There shall be at least one unit immediately available for each member in the tunnel.

MSHA or NIOSH approved "Self Rescuer" or "Self Contained Self Rescuer" devices fulfill this requirement provided the user has been trained in its use and the device is suitable for the type of potential hazards that may be encountered.

(g) A rescue service entry team shall have the ability at a minimum to continuously monitor the air for oxygen, carbon monoxide, hydrogen sulfide, and combustible gasses as well as any other atmospheric contaminants that are known or suspected.

(h) The rescue service entry team shall have at least two methods of communication with the surface, one of which shall be voice communication.

This requirement may be satisfied by using both the "direct" and "trunked" features of the same radio systems provided adequate equipment is available to the entry team to provide constant simultaneous communication using both methods.

(i) Rescue service entry teams that enter a mine or tunnel with a known atmospheric hazard shall have a clearly defined "turnaround" benchmark to ensure adequate egress to an area of refuge or safety.

(j) Each rescue service entry team that enters a mine or tunnel with a known or suspected atmospheric hazard shall have at least one source of breathable air independent of each wearer's SCBA to be used in the event of an SCBA failure or "out of air" emergency. This source of air is to be independent of any device brought in for the use of victims.

(k) A backup team with similar size and capabilities as the rescue service entry team shall be immediately available to enter the space.

(l) Each member of the organization who is designated as part of the technician level rescue service shall practice making mine or tunnel rescues as part of a rescue team no less

than once every twelve months. This may be accomplished by means of simulated rescue operations in which the team removes dummies, mannequins, or persons from actual mines and tunnels or from representative mines and tunnels.

Representative mine and tunnels should, with respect to opening size, configuration, and accessibility, simulate the types of mines and tunnels from which rescue is to be performed.

NEW SECTION

WAC 296-305-05502 Training and member development. (1) The employer must provide training, education and ongoing development for all members commensurate with those duties and functions that members are expected to perform.

(a) Training and education must be provided to members before they perform emergency activities.

(b) Fire service leaders and training instructors must be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(c) The fire department shall develop an ongoing proficiency cycle with the goal of preventing skill degradation.

(2) Training on specific positions/duties deemed by the fire department critical to the safety of responders and the effectiveness of emergency operations (such as driver operators or support personnel) shall be provided at least annually.

(3) Firefighters shall be trained in the function, care, use/operation, inspection, maintenance and limitations of the equipment assigned to them or available for their use.

(4) Members who are expected to perform interior structural firefighting shall be provided with an education session or training at least quarterly.

(5) When firefighters are engaged in training above the ten foot level, where use of lifelines or similar activities are to be undertaken, a safety net or other approved secondary means of fall protection recommended in chapter 296-155 WAC, Part C-1, Fall restraint and fall arrest, shall be used.

(6) Continuing education live fire training.

(a) All members who engage in interior structural firefighting in IDLH conditions shall be provided live fire training appropriate to their assigned duties and the functions they are expected to perform at least every three years. Firefighters who do not receive this training in a three-year period will not be eligible to return to an interior structural firefighting assignment until they do.

(b) All live fire training shall be conducted by fire department qualified fire service instructors. When conducting their own training, fire departments must meet the requirements set out in the 2007 edition of the NFPA 1403, Standard on Live Fire Training Evolutions.

(c) An incident safety officer shall be appointed for all live fire training evolutions. The incident safety officer function shall be filled by a person who is trained and qualified in the IMS/Incident safety officer duties and who is not responsible for any other function at the training evolution other than the role of incident safety officer.

(7) When using structures for live fire suppression training, activities shall be conducted according to the 2007 edi-

tion of NFPA 1403, Standard on Live Fire Training Evolutions. When using structures for nonlive fire training, the following requirements shall be met:

(a) All structures used for training must be surveyed for potential hazardous substances, such as asbestos or lead, prior to the initiation of any training activities. If the hazardous substances are to be disturbed during any training activity they must be removed prior to beginning that activity. If the training activity will not disturb the hazardous substance, the material must be clearly marked and all participants must be shown the location of the substance and directed not to disturb the materials.

(b) Acquired or built structures used for fire service training that does not involve live fire must be surveyed for the following hazards and those hazards abated prior to the commencement of training activities:

(i) In preparation for training, an inspection of the training building shall be made to determine that the floors, walls, stairs and other structure components are capable of withstanding the weight of contents, participants and accumulated water.

(ii) Hazardous materials and conditions within the structure shall be removed or neutralized.

- Closed containers and highly combustible materials shall be removed.

- Oil tanks and similar closed vessels that cannot easily be removed shall be vented sufficiently to eliminate an explosion or rupture.

- Any hazardous or combustible atmosphere within the tank or other vessel shall be rendered inert.

- Floor openings, missing stair treads or railings, or other potential hazards shall be repaired or made inaccessible.

(iii) If applicable, floors, railings and stairs shall be made safe. Special attention shall be given to potential chimney hazards.

(iv) Debris hindering the access or egress of firefighters shall be removed before continuing further operations.

(v) Debris creating or contributing to unsafe conditions shall be removed before continuing further operations.

(c) Asbestos training. Firefighters must be provided asbestos awareness training, including communication of the existence of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM). Training shall be provided prior to initial assignment and annually thereafter, and must include:

(i) The physical characteristics of asbestos including types, fiber size, aerodynamic characteristics and physical appearance.

(ii) Examples of different types of asbestos and asbestos-containing materials to include flooring, wall systems, adhesives, joint compounds, exterior siding, fire-proofing, insulation, roofing, etc. Real asbestos shall be used only for observation by trainees and shall be enclosed in sealed unbreakable containers.

(iii) The health hazards of asbestos including the nature of asbestos related diseases, routes of exposure, dose-response relationships, synergism between cigarette smoking and asbestos exposure, latency period of diseases, hazards to immediate family, and the health basis for asbestos standards.

(iv) Instruction on how to recognize damaged, deteriorated, and delamination of asbestos-containing building materials.

(v) Decontamination and clean-up procedures.

(vi) Types of labels that are used within different industries to identify ACM or PACM that is present within structures. The labeling system the employer will use during training to identify asbestos and ACM/PACM during destructive drilling and training.

(vii) The location and types of ACM or PACM within any fire department owned or leased structures and the results of any "Good Faith Survey" done on fire department owned or leased structures.

(8) Asbestos exposure during destructive training activities. Fire department employees are exempt from the requirements of chapter 296-65 WAC and WAC 296-62-077, provided they comply with the following requirements:

(a) Fire departments must obtain a good faith asbestos inspection/survey from the property owner/agent prior to disturbing building materials. The good faith survey must comply with chapter 296-62 WAC Part I-1 and shall be conducted by an AHERA accredited inspector and performed in accordance with 40 CFR 763, Subpart E.

(b) Good faith surveys must be shared with all employers and employees prior to using any structure.

(c) Materials containing >1% asbestos must be marked by a system recognized by all members. ACM/PACM may not be disturbed prior to, or during training, or must be removed by a certified asbestos abatement contractor prior to training activities. The incident safety officer for the training must walk all participants through the structure and inform them of the location of all ACM/PACM and that this material is not to be disturbed. If the structure is used for a black-out drill, the incident safety officer must instruct members that ACM/PACM is present and take precautions to ensure these materials are not disturbed during the training. A walk through is not required for black-out drills.

(d) Destructive drilling must not occur in a structure until the fire department has received a good faith asbestos survey from the owner/agent and ensured that any ACM or PACM has been abated from substrates upon which destructive drill tasks are planned to be performed. All suspect asbestos materials designated for destructive drill tasks will be identified, evaluated and tested by an accredited AHERA lab.

(e) Materials containing < or = 1% asbestos must be labeled by a system recognized by all members. Prior to initiating any destructive drilling on materials containing < or = 1% asbestos, the incident safety officer for the training must walk all participants through the structure and inform them of the location of asbestos.

(f) Firefighters must wear SCBA and turnouts whenever exposed to asbestos.

(g) Firefighters must be provided gross decontamination at the drill site by rinsing/brushing the firefighters turnouts and SCBA with water.

(h) Hand tools and other asbestos contaminated equipment will be rinsed off prior to being returned to the apparatus or service. Tools and equipment that cannot be decontaminated on site must be placed in sealed containers until

they can be decontaminated. Care must be taken to not spread the asbestos.

(i) PPE that may have been contaminated with asbestos must be cleaned in a manner recommended by the manufacturer and that prevents the exposure of the employee cleaning the PPE. PPE that cannot be cleaned on-site must be placed in sealed containers until they can be decontaminated.

(j) In structures scheduled for demolition, or that will be turned over to another employer, where < or = 1% asbestos has been disturbed, the fire department will provide written notice to the owner/agent that asbestos has been disrupted and remains on-site. The fire department will inform the owner/agent, in writing, that access to the property must be limited to the demolition or asbestos contractor.

(k) The fire department will secure the structure after all drills and at the conclusion of the use of the structure. Securing the structure may include but not be limited to: Locking or boarding up windows, doors, and wall and roof openings. The site of the structure may also require fencing. When asbestos material of < or = 1% has been disturbed by the fire department's drill activities, the site will be posted with warning signs. These signs will notify entrants onto the site that asbestos debris of < or = 1% has been left on the site. For fire department members who plan to enter the structure or the building footprint, the signs will state the necessity of full turn-outs and SCBA with decontamination procedures. The signs will also state that entry into the building or the building footprint is prohibited by any persons other than the fire department and the demolition/abatement contractor.

(9) Additional training. Training must be provided on topics according to the job duties and potential hazards as outlined in Table X, Subject Specific Training.

Table X Subject Specific Training	
Topic	Training requirements found in:
HEALTH AND SAFETY	
Noise and hearing loss prevention	<ul style="list-style-type: none"> • Chapter 296-817 WAC, Hearing loss prevention (noise) • WAC 296-305-02004
Respiratory equipment	<ul style="list-style-type: none"> • Chapter 296-842 WAC, Respirators • WAC 296-305-04001
Employee right-to-know procedures	<ul style="list-style-type: none"> • WAC 296-800-170, Employer chemical hazard communication—Introduction
Identification and handling of asbestos-containing materials likely to be encountered during a fire response	<ul style="list-style-type: none"> • WAC 296-62-07722 (4)(c) or EPA awareness level asbestos two hour training course
FIRE SUPPRESSION	
Overhaul procedures and operations	<ul style="list-style-type: none"> • WAC 296-305-05000 and 296-305-05002

Table X Subject Specific Training	
Topic	Training requirements found in:
Live fire training in structures	<ul style="list-style-type: none"> • NFPA 1403, Standard on Live Fire Training Evolutions, 2007 Edition
Wildland fires	<ul style="list-style-type: none"> • WAC 296-305-07010 through 296-305-07019 • The National Wildfire Coordination Group (NWCWG) fire-fighter II • All training for assigned wildland incident command positions must be completed prior to assignment by the IC
INCIDENT MANAGEMENT	
Incident management training	<ul style="list-style-type: none"> • National Incident Management System • NFPA 1561, Standard on Emergency Services Incident Management System, 2008 edition (available on-line)
EMERGENCY MEDICAL	
Emergency medical training	<ul style="list-style-type: none"> • WAC 296-305-02501
HAZARDOUS MATERIALS	
Hazardous materials training	<ul style="list-style-type: none"> • Chapter 296-824 WAC, Emergency response • Nonconflicting portions of NFPA 472, Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents, 2008 edition
TECHNICAL RESCUE	
Confined space entry and/or rescue	<ul style="list-style-type: none"> • Chapter 296-809 WAC, Confined spaces • WAC 296-305-05004 • Nonconflicting portions of NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition

Table X Subject Specific Training	
Topic	Training requirements found in:
Other technical rescue situations, such as rope, structural collapse, transportation/ machinery, trench, water, and wilderness rescue	<ul style="list-style-type: none"> • NFPA 1670, Standard on Operations and Training for Technical Rescue Incidents, 2004 edition • Nonconflicting portions of NFPA 1006, Professional Qualifications for Technical Rescue, 2008 edition
POSITION SPECIFIC DEVELOPMENT	
Aircraft	<ul style="list-style-type: none"> • NFPA 402, Guide for Aircraft Rescue and Firefighting Operations, 2008 edition
Driver training	<ul style="list-style-type: none"> • WAC 296-305-04505(8)

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06001 Fire service equipment. (1) All portable equipment shall be inspected routinely to ensure that it is ready for use.

(2) Any defective equipment shall be removed from service.

(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap shall be of one-inch nylon, or equivalent belting, with a four-inch overlap and sewn with polyester thread and shall measure at least 102 inches on the outside circumference.

(4) The load capacity shall be stenciled on each portable jack and the load capacity shall not be exceeded.

(5) The instruction plate on portable jacks shall be maintained in a legible condition.

(6) Portable powered cut-off saws (rescue saws) shall be used in accordance with the manufacturer's recommendations.

Exception: The lower blade guard described in WAC ((296-24-65501-(1)(a))) 296-807-12005 is not required on hand-held portable powered cut-off saws used by fire/rescue personnel for rescue procedures and/or roof ventilation for smoke removal, provided the operator is wearing appropriate eye, face, head, and body protection as specified in WAC 296-305-02001 through ((296-305-02013)) 296-305-02012. This exception also applies to qualified persons (e.g., instructors) wearing personal protective equipment as described herein to instruct personnel in safe roof ventilation/rescue techniques.

(7) When not in use, the cutting teeth on a chain saw shall be covered either by an old section of hose, a wooden scabbard, or an equivalent method.

(8) All axes worn by employees shall be provided with a scabbard to guard against injury from the blade and pick of the axe.

(9) The guards on smoke ejectors, as supplied by the manufacturer, shall not be removed and the operator of the ejector shall wear gloves.

(10) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders shall be in accordance with the Compressed Gas Association Pamphlet G-1 - ((1966)) 2003 edition.

(11) Powder activated life-line guns and accessories shall be stored in a box or container equipped with a lid or cover.

(a) The box shall be kept closed when not in use.

(b) A loaded life-line gun shall not be placed in the storage box.

(c) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes shall be kept in the life-line gun storage box.

(d) The words "powder activated tool" shall be conspicuously printed on the top of the storage box.

(12) Abrasive blades in storage, not on a saw, shall be protected from contact with water, liquids, petroleum products and their fumes.

(13) Fiber rope that has been subjected to injurious chemicals or excessive heat shall not be used for load carrying purposes.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06003 Testing fire service equipment.

(1) ~~((When testing fire hose, a restricted orifice disc having not more than a 25% opening, shall be installed on the pumper discharge port. Or in the alternative, the pumper discharge valve may be opened not more than 25% to insure a minimum volume of water in case of a bursting hose.))~~ All fire suppression and supply hose must be tested annually and when there is reason to believe the hose has been damaged. Testing shall be in accordance with the 2003 edition of NFPA 1962, Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose.

(2) Safety nets shall be tested annually by dropping a weight of not less than 400 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of two and one-half inch hose, each 100 feet long, or any other object having similar weight and dimension.

(a) The net suspension system shall be designed and constructed with a safety factor of four and as a minimum, shall withstand the test loading without permitting contact between the net and any surface or object below the net.

(b) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(c) Training requiring safety net protection shall not be undertaken until the net is in place and has been tested by the weight of three firefighters on the net.

(d) Safety nets shall extend eight feet beyond the edge of the work surface.

(e) The mesh size of nets shall not exceed six inches by six inches.

(f) All nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and shall bear a label of proof test.

(g) Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

~~(3) ((Life belts shall meet or exceed the strength requirements of ANSI A10.14 - Requirements for Safety Belts, Harnesses, Lanyards, Lifelines and Drop Lines for Industrial Use. Life belts shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.~~

~~(4) Rescue ropes shall be used for rescue purposes only.~~

~~(5) Rescue ropes shall meet the following requirements:~~

~~(a) Rescue ropes shall be constructed of rot-proof fiber with a melting point of not less than 400 degrees F;~~

~~(b) They shall be of abrasion resistant construction;~~

~~(c) They shall have a minimum breaking strength of not less than 9,000 pounds.~~

~~(6) Rescue ropes shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.~~

~~(7)) The method of testing a life line gun shall be in accordance with the manufacturer's recommended procedure.~~

NEW SECTION

WAC 296-305-06006 Ground ladders. This section establishes the minimum requirements for the construction, care and use of fire department ground ladders.

(1) New ground ladders purchased after the effective date of this chapter shall be constructed and certified in accordance with the 2004 edition of NFPA 1931, Standard on Design and Design Verification Tests for Fire Department Ground Ladders.

(2) Firefighters shall climb and descend ground ladders with the fly in, for safety purposes, when not in conflict with the manufacturer's recommendations. Even when ladders are routinely used in the fly-out configuration, in adverse conditions firefighters shall be permitted to climb and descend ground ladders with the fly in to assure secure footing.

(3) All ground ladders shall be maintained in accordance with the manufacturer's recommendations and visually inspected at least once a month and after every use. The following ladder components shall be visually inspected:

(a) Heat sensor labels, if provided, for a change indicating heat exposure.

(b) All rungs for snugness and tightness.

(c) All bolts and rivets for tightness.

(d) Welds for any cracks or apparent defects.

(e) Butt spurs for excessive wear or other defects.

(f) Halyards for fraying or breaking.

(g) Roof hooks for sharpness and proper operation.

(h) Beam and rungs for punctures, wavy conditions, worn serrations or deformation.

(i) Surface corrosion.

(4) The following wood ladder components shall be checked:

(a) Beams for dark streaks. When a wood ground ladder develops dark streaks in the beams, the ladder shall be

removed from service and service tested as specified in subsection (9) of this section.

(b) Loss of gloss on the protective finish of fiberglass or wood ladders, signifying damage or wear.

(5) Any sign of damage or defect during a visual inspection shall be cause to remove the ladder from service until it has been repaired. Scratches and dents shall not be cause for a ladder to fail a test if it passes the appropriate service test.

(6) If the heat sensor label has an expiration date, and that date has passed, the heat sensor label shall be replaced.

(7) Whenever any ground ladder has been exposed, or is suspected of having been exposed to direct flame contact, or wherever the heat sensor label has changed to indicate heat exposure, the ladder shall be service tested according to subsection (9) of this section.

(8) Temporary repairs shall not be made to ground ladders.

(9) When ground ladders are tested, they shall be tested in accordance with the strength service testing procedures of the 2004 edition of NFPA 1932, Standard on Use, Maintenance and Service Testing of In-Service Ground Ladders, section 7.2.

NEW SECTION

WAC 296-305-06008 Electrical. (1) Temporary power and lighting with the use of 110 - 120 VAC equipment.

(a) All lighting equipment shall be provided with heavy duty flexible cords with SO or SJ jackets or equivalent. All lighting equipment shall be used with heavy duty flexible extension cords rated for the intended load with SO or SJ jackets or equivalent.

(b) Flexible cords and cables shall be approved and suitable for conditions of use and location.

(c) Flexible cords shall be used only in continuous lengths without splice or tap. Hard service flexible cords No. 12 or larger may be repaired if spliced so that the splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.

(d) Flexible cords shall be connected to devices and fittings so that strain relief is provided which will prevent pull from being directly transmitted to joints or terminal screws.

(e) Flexible cords and cables shall be protected from accidental damage. Sharp corners and projections shall be avoided. Where passing through doorways or other pinch points, flexible cords and cables shall be provided with protection to avoid damage.

(f) The path to ground from power cords, equipment, and temporary lights shall be continuous.

(g) Electrical equipment, tools, and temporary lights that are used in wet or damp locations or other hazardous atmospheres shall be approved for the purpose.

(h) Electrical equipment, tools, and temporary lights shall be constructed so that water cannot enter or accumulate in wireways, lampholders or other electrical parts.

(i) Electrical equipment, tools, and temporary lights that are used in wet or damp locations or hazardous atmospheres shall have 120 VAC single-phase 15 or 20 amp in-line resettable ground fault circuit interrupters.

(j) Temporary lights shall be equipped with a handle and be insulated from heat and possible electrical shock.

(k) Temporary lights shall not be suspended by their electrical cords unless cords and lights are designed and labeled for this means of suspension.

(l) Temporary lights shall be protected by guards of a nonconductive or insulated material to prevent accidental contact with the bulb.

(2) 120 VAC cord reels shall be approved for use in wet or damp locations or hazardous atmospheres.

(a) Bodies and caps shall be weather tight, 20 amp rated at 120 VAC.

(b) Cords on cord reels that do not exceed one hundred fifty feet in length shall be SO or SJ type jackets or equivalent.

(c) Cords that exceed one hundred fifty feet in length on reels, shall have 10-gauge conductors.

(d) Cord reels that are not permanently mounted on a vehicle shall be insulated from the ground when in use.

(3) 12 volt portable type hand lanterns shall be constructed of molded composition or other type approved for the purpose.

(a) Portable hand lanterns used in wet or damp conditions or other hazardous atmospheres shall be operated at a maximum of 12 volts.

(b) Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lamp-holder.

(4) Portable and vehicle-mounted generators.

(a) Portable generators. Under the following conditions, the frame of a portable generator shall not be required to be grounded and shall be permitted to serve as the grounding electrode for a system supplied by the generator:

(i) The generator supplies only equipment mounted on the generator or cord-connected and plug-connected equipment through receptacles mounted on the generator, or both; and

(ii) The noncurrent-carrying metal part of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(b) Vehicle-mounted generators. Under the following conditions, the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(i) The frame of the generator is bonded to the vehicle frame;

(ii) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator; and

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(5) Electrical equipment used in classified locations must conform to the requirements set out in WAC 296-24-95613, Hazardous (classified) locations. Definitions pertaining to classified locations can be found in WAC 296-24-95601.

Additional references: Article 250 National Electrical Code. Chapter 296-24 WAC, Part L and WAC 296-800-280.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06501 Requirements for fire ((station)) department facilities. WAC 296-305-06501 through 296-305-06519 pertain to all fire department facilities as defined in WAC 296-305-01005.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-06503 General requirements. (1) Stations and administrative offices shall comply with the requirements of the general occupational health standards, WAC 296-800-210, Lighting in the workplace.

(2) Every new fire station built after the effective date of this chapter, whether manned or unmanned, shall be equipped with an approved emergency lighting system that will light dormitories, hallways, and apparatus bay areas in case of electrical power failure.

(3) ~~((No))~~ New fire stations or new additions to an existing fire station ~~((, shaft))~~ that incorporate sliding poles or slides in their design or construction must meet the following requirements:

(a) The sliding pole floor opening will be enclosed by walls with access provided to the floor opening only through a door.

(b) The door will have a latch or knobs no lower than five feet from the floor.

(c) The door will be equipped with a system that will automatically keep the door locked unless an alarm requiring a response sounds in the fire station. This automatic lock system will allow for a manual override, which will be used only to enable inspection, maintenance, repair or replacement of the sliding pole, the enclosure, the door, or other features of the sliding pole system. The automatic lock system will feature a warning light above or adjacent to the door that will indicate when the door is unlocked.

(d) Permanent illumination which cannot be manually turned off will be provided in the pole hole.

(e) The automatic lock system will be subject to monthly inspections.

(f) The sliding pole floor opening will be illuminated constantly in a manner that cannot be overridden manually, except as needed for inspection, repair, maintenance, or replacement.

(g) The bottom of the sliding pole will be cushioned by a minimum three-foot diameter rubber mat or its equivalent.

(h) Nothing will be stored or placed at the bottom of the sliding pole for a radius of three feet from the pole.

(i) Doors will not protrude within three feet of the pole.

(j) Proper sliding pole use will be included as part of the formal firefighter training program.

(4) The requirements of chapter ~~((296-24))~~ 296-878 WAC, ~~((Part B-2,))~~ window ~~((washing))~~ cleaning, shall be followed when employees are engaged in window washing operations.

(5) All new fire stations and other new fire department facilities which contain sleeping quarters shall be fully protected with automatic sprinkler systems.

(6) All existing fire stations and existing fire department facilities with sleeping quarters, that undergo a major renovation that consists of more than sixty percent of the assessed evaluation of the existing structure shall be fully protected with automatic sprinkler systems.

(7) Eye protection shall be worn when charging, changing or adding fluid to storage batteries. Personnel that will be charging storage batteries shall be qualified to perform this function by the employer. See WAC ((296-24-23015)) 296-800-16050.

(8) Stairway tread shall be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.

(9) In existing facilities where sliding poles or slides are used, the pole or slide hole shall be guarded in such a manner as to prevent anyone from walking directly into the pole or slide hole opening.

(10) To absorb the shock to sliding employees, the bottom of all slide poles or slides shall have a three-foot diameter cushioned rubber mat, or its equivalent.

(11) Nothing shall be stored or placed at the bottom of a pole or slide hole for a radius of three feet from the pole. Doors shall not protrude within three feet of the pole or slide.

(12) Stair and landing protection: Stairways, guardrails, landings, and handrails shall be constructed to the requirements of chapter 19.27 RCW the State Building Code Act, and ((chapter 296-24 WAC, Part J-1)) WAC 296-800-250.

(13) A standard guard railing for a landing platform shall include a toeboard, which is a vertical barrier, at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.

(14) Any new facility, or addition, alteration, or repair to an existing facility shall be in compliance with chapter 19.27 RCW, the State Building Code Act.

(15) New stations containing a kitchen, and station kitchens remodeled after the date of this chapter, shall have an alarm activated service disconnect of fixed cooking appliances.

(16) Asbestos in facilities, buildings, and properties used by fire departments.

(a) Fire department employees shall be informed of the presence and location of asbestos-containing material (ACM) and presumed-asbestos-containing material (PACM) in areas of buildings where employees work.

(b) Damaged and deteriorating asbestos in fire stations and facilities must be repaired, removed, enclosed or encapsulated.

(c) ACM and PACM in fire stations and facilities shall be labeled according to WAC 296-62-07721(6).

(d) WAC 296-62-07723, Housekeeping, shall apply to fire stations and facilities.

(e) Fire departments that do not comply with this section must comply with the requirements relating to asbestos set out in chapters 296-62 and 296-65 WAC.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06505 Sanitation, disinfection, cleaning, and storage areas. (1) Fire departments shall provide facilities for disinfecting, cleaning, and storage.

(2) A designated cleaning area shall be provided for under the fire department's exposure control plan for the cleaning and disinfecting of protective equipment, portable equipment, and other clothing.

(a) Fire departments that engage in emergency medical operations shall provide or have access to disinfecting facilities for the cleaning and disinfecting of emergency medical equipment.

(b) Disinfecting shall not be conducted in fire station kitchen, living, sleeping, or personal hygiene areas.

(c) Disinfecting facilities in fire stations shall be vented to the outside environment, and designed to prevent contamination of other fire station areas.

(d) The disinfecting facility shall contain a sink with hot and cold water faucets. All surfaces shall be nonporous surfaces.

(e) Handwashing facilities shall be readily accessible to members. Handwashing facility means a facility providing an adequate supply of running potable water, soap and single use towels or hot air drying machines. When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleaner in conjunction with clean cloth/paper towelettes or antiseptic towelettes.

(3) Protective clothing or equipment that (~~needs to be decontaminated and/or disinfected~~) is contaminated or potentially contaminated shall not be allowed in any kitchen, living, sleeping, ((~~or~~)) personal hygiene or other nonwork area.

(4) The designated cleaning area shall be physically separate from areas used for food preparation, cleaning of food and cooking utensils, personal hygiene, sleeping, and living areas.

(5) Drying areas for protective clothing shall be well ventilated.

(6) Storage areas: Emergency medical supplies and equipment stored in fire stations, other than that stored on vehicles, shall be stored in a dedicated enclosure and maintained per manufacturer's instructions.

(7) Reusable emergency medical supplies and equipment, protective clothing, and protective equipment shall not be stored in kitchen, living, sleeping, or personal hygiene areas, nor shall it be stored in personal clothing lockers.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06507 Sleeping areas. (1) All sleeping areas in fire stations shall be separated from vehicle storage areas by at least one-hour fire resistive assemblies. Compliance with this section shall be required within three years of the effective date of this chapter.

(2) Sleeping areas shall be protected by smoke and carbon monoxide detectors.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-06511 Indoor air quality. Air quality shall be consistent with ~~((WAC 296-62-075 through 296-62-07515, Air))~~ chapter 296-841 WAC, Airborne contaminants, and WAC 296-800-240, Environmental tobacco smoke.

(Note: ~~For extended work shifts all eight-hour PEL's shall be time-weighted to adjust for additional worker exposure during extended work shifts.))~~

(1) If indoor air monitoring indicates over-exposure to contaminant PEL's, engineering controls shall be utilized to reduce firefighter exposure to the lowest feasible level.

(2) All fixed internal combustion equipment such as, but not limited to emergency generators, shall be effectively exhausted to the exterior of the fire stations.

(3) All facilities dedicated to the maintenance and repair of internal combustion equipment shall have means for effective ventilation to the exterior of the building.

(4) All new fire stations ~~((built after January 1, 1997,))~~ shall be designed and constructed to conform to ACGIH ventilation recommended criteria for exhaust of internal combustion engines.

Additional reference: Industrial Ventilation Manual of Recommended Practices ISBN No.: 0-936712-65-1.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06513 Refueling areas. (1) Refueling pumps, if installed, shall be in accordance with the provisions of the ~~((Uniform))~~ International Fire Code and WAC 296-24-33015.

(2) Dispensing of Class 1 liquids shall be as required in the ~~((Uniform))~~ International Fire Code.

(3) Spillage of oil or fuel shall be properly disposed of or completely evaporated and the fuel tank cap replaced before restarting engine.

(4) Fueling areas shall be posted - "NO SMOKING - STOP YOUR MOTOR."

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-305-06515 Hose drying towers. (1) The floor openings on hose tower platforms shall be equipped with a forty-two inch guardrail with mid-rail and shall be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail. The work platform shall be equipped with toeboards.

(2) The requirements for offset ladder platforms and ladder cage guards, when ladders extend beyond twenty feet, shall apply to hose drying towers.

(3) Ropes and attachments used to hoist hose in the hose towers shall have a breaking strength of 1500 pounds for a safe load strength of 300 pounds (five-to-one safety factor).

(4) Approved head protection shall be worn by all persons in the hose tower whenever hose handling/hanging operations are taking place.

(5) Ropes utilizing a pulley block shall be appropriately sized for the sheave to prevent possible jamming or damage to the rope.

~~((Additional reference: Chapter 296-24 WAC, Part J-1 and chapter 296-800 WAC.))~~

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06517 Drill tower training facilities.

(1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

(2) Drill tower construction and operations shall comply with the following:

(a) Burn buildings used for live fire training shall be engineered for such use.

(b) Drill towers shall not be used for live fire training except when burn rooms are provided.

(c) Burn rooms, if included in the building, shall be engineered into drill towers.

(d) All walking surfaces in the drill tower shall be slip resistant.

(e) Railings shall be designed with a four-to-one safety ratio for 250 pound firefighters who may be operating a charged hose line on the fire escape.

(f) Rappelling anchors shall be engineered to support ~~((4500))~~ 5000 pounds per person supported by the anchor.

(g) Rappelling anchors shall be readily identifiable.

(h) Rappelling anchors shall be certified by a structural engineer.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-305-06519 Fire station equipment and tools. (1) Equipment and tools in maintenance shops shall be guarded as required by the guarding provisions of chapter 296-806 WAC, Machine safety, and chapter 296-807 WAC, Portable power tools.

(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch. This provision shall not apply to residential ceiling fans.

(3) Abrasive wheels and grinders.

(a) All abrasive wheels and grinders, shall be guarded as required by chapter 296-806 WAC, Machine safety.

(b) Goggles or face shields shall be used when grinding.

(c) Abrasive and composite blades shall be stored and protected against exposure to fuel and oil.

(d) Work rests on bench mounted abrasive wheel grinders shall be used to support the work. These shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted sufficiently close to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest shall not be made while the wheel is turning.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-07001 ((Wildland fire)) Wildfire operations. ~~((1) This section shall apply to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."~~

~~(2) This section shall not apply to suppression action taken on fires prior to the fire meeting the definition of a "wildland fire."~~

~~(3) Employers shall provide at no cost to the employee, the protective equipment and protective clothing required by this chapter. Personnel performing suppression actions on a wildland fire shall wear the provided protective clothing as directed by their fire department's procedures/guidelines.))~~

Definitions:

Urban wildfire: An uncontained fire requiring suppression action usually spreading through ground cover, vegetative fuels, brush, grass, and landscaping; often threatening residential and commercial structures within an urban environment with access to established roadways and water systems.

Wildland firefighting: The activities of fire suppression and property conservation in woodlands, forests, grasslands, brush, and other such vegetation or any combination of vegetation that is involved in a fire situation but is not within buildings or structures.

(1) WAC 296-305-07010 through 296-305-07018 shall only apply to personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) Employers shall provide, at no cost to the employee, the protective equipment and protective clothing required by this chapter. Personnel performing suppression actions on a wildland fire shall wear and maintain the provided protective equipment and clothing as directed by their department's procedures and guidelines.

NEW SECTION

WAC 296-305-07002 Wildfire personnel accountability. (1) Urban wildfire and wildland firefighters shall not be required to wear personal alerting devices except when wearing self-contained respiratory equipment.

(2) An officer shall maintain positive communication with any individual during those times that the member is assigned an ancillary firefighting task (examples would include, but are not limited to, scout, incident safety officer, or lookout).

(3) Urban wildfire and wildland firefighters engaged in direct fire attack shall work in teams of two or more unless they are in visual or voice contact with an officer.

(4) On initial attack fires, the incident commander shall maintain the name and location of all personnel on the incident.

(5) On extended attack fires, the incident commander shall:

(a) Ensure the maintenance of the name and location of all personnel within their unit, division, or branch.

(b) Transfer/confirm personnel and unit information to the appropriate incident command system (ICS) staff as soon as possible.

(c) Announce transfer of command to all on scene.

(d) Ensure that personnel and unit information is recorded in the command post as soon as possible.

(6) When a fire "blows up" or makes a run that crosses planned control lines, officers shall conduct an accounting of all personnel assigned to fire suppression and report any missing personnel to the incident commander.

NEW SECTION

WAC 296-305-07004 Heat-related illness prevention for wildfire and wildland firefighters. (1) At all wildland fires, members shall be provided with a minimum of one quart per hour of electrolyte drinks or potable water.

(2) Officers at wildland fires shall be trained in the symptoms of heat-related disorders and shall observe their crews for such behavior. Appropriate action shall be taken in the event a crew member displays such symptoms.

(3) At all wildfires, the incident commander shall consider the circumstances of the incident and make adequate provisions early in the incident for the rest and rehabilitation of all members operating at the scene. These provisions shall include fluid replenishment; other factors to consider are the extremes of the climatic conditions and other environmental factors that increase the firefighter's heat stress.

(4) One hour is the maximum time that individuals can work in high temperatures in structural protective clothing. Agencies may substitute crews to avoid the one-hour bench mark or increase crew size to complete the job in less than one hour.

(5) Members may be reassigned to return to duty throughout the incident cycle once a work-to-rest ratio (company and crew) rehabilitation rotation has been established.

Note: WAC 296-305-05004, Occupational exposure to heat and cold stress, may be of assistance while developing a plan, establishing training topics, and identifying environmental factors to consider for incident rehabilitation. The 2008 edition of NFPA 1584, Standard on the Rehabilitation Process for Members During Emergency Operations and Training Exercises may also assist in establishing a rehabilitation plan.

NEW SECTION

WAC 296-305-07006 Equipment for wildfire and wildland firefighting.

Note: Equipment is considered in this section as those items not configured as a part or portion of the vehicle body.

(1) All equipment on an apparatus shall be carried in an enclosed compartment or otherwise securely mounted on the apparatus and guarded, so that individuals cannot accidentally come in contact with equipment that may injure them.

(2) All hand tools, when not in use, shall have appropriate covers and guards to prevent injury.

(3) Firefighters whose duties require them to operate a power chain saw shall wear flexible ballistic nylon pads, sewn or otherwise fastened into the trousers, or other equivalent protection that shall cover the full length of the thigh to the top of the boot. Additional trouser, eye, hearing, face and head protection as required by this chapter shall be worn.

(4) Employees shall not use the chainsaw to cut directly overhead, or at a distance that would require the operator to relinquish a safe grip on the saw.

(5) Only personnel trained in firing equipment shall handle and use such equipment, and observe the manufacturers' recommendations.

NEW SECTION

WAC 296-305-07008 Aircraft operations for fighting wildfires and wildland fires. (1) Whenever fixed wing and rotary aircraft are being utilized on an incident, personnel trained in air operations management shall be assigned as necessary by the incident commander/operations section chief.

(2) Prior to the initiation of air operations, all personnel operating in close proximity to an air drop shall be notified of such activity.

(3) Personnel shall not intentionally operate in an area where it can reasonably be expected that they may be hit with retardants or suppressants from fixed wing or rotary aircraft.

(4) Radio communications shall be maintained between an aircraft/air attack group supervisor and the appropriate ground officer.

(5) Personnel assigned to ride in fixed wing or rotary aircraft shall be briefed in the correct approach, riding and off-loading procedures for the particular type of aircraft.

Note: The NWCG aircraft passenger briefing/checklist can be found in the "*Incident Response Pocket Guide*" at http://www.nwcg.gov/pms/pubs/IRPG_Jan2004.pdf

NEW SECTION

WAC 296-305-07010 Training for wildland firefighting. (1) This section shall apply to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) This section shall not apply to structural suppression crews' actions taken on urban wildfires.

(3) Suppression personnel assigned to a wildland fire shall be trained to a NWCG firefighter level II or a comparable class of training.

(a) "Comparable" training shall be determined by the employer.

(b) Nothing in this section shall preclude the use of local residents, affected parties or contracted firefighting resources to suppress wildland fires if they are under the direct supervision of a qualified fire line officer.

(4) Supervisory personnel shall be trained to a level commensurate to the position and responsibility they are to assume.

(5) All personnel will be trained and capable of demonstrating competency in utilizing the Incident Command System (ICS).

(6) All suppression personnel shall annually review the ten fire orders, the eighteen "watch out" situations, and the four common denominators of tragedy fires.

Note: The National Interagency Fire Center's "Wildland Fire Safety Training Annual Refresher (WFSTAR)" is a good resource for training topics related to wildland firefighting.

These resources can be found at <http://www.nifc.gov/wfstar/index.htm>

NEW SECTION

WAC 296-305-07012 Personal protective clothing and equipment for wildland firefighting. (1) Protective apparel and equipment for wildland firefighters shall be designed to provide thermal protection for the firefighters against external heat sources with flame resistant clothing and equipment without creating high heat stress loads due to the prolonged work periods they experience. Members performing suppression on a wildland fire shall wear a provided protective clothing ensemble as directed by their employer. The combined protective clothing ensemble includes:

- (a) Hardhat/helmet;
- (b) Upper and lower torso clothing;
- (c) Gloves; and
- (d) Goggles.

The 2005 edition of NFPA 1977, Standard Protective Clothing and Equipment for Wildland Firefighting, shall serve as a guideline for determining performance characteristics of this clothing.

Note: This requirement does not apply to logging company employees whose primary job duty is not fire suppression, but are called upon to fight a wildland fire they discover.

(2) As a minimum, members shall wear provided leather lace-up boots of sturdy construction which shall extend upward a minimum of eight inches above the top of the sole to the lowest point of the top of the boot. The sole of the boot shall be slip resistant.

(3) Additional personal protective equipment to be provided and worn shall include a fire shelter as directed by the incident commander. Persons provided fire shelters shall be trained in their use and shall receive refresher training at least annually.

(4) Wildland protective clothing shall comply with this standard.

(5) Personnel operating Type 1 or Type 2 engines assigned to structural protection shall carry structural firefighting ensembles for each firefighter on their assigned apparatus.

(6) Wildland personnel protective clothing shall not be used for interior structural firefighting.

(7) Personnel wearing full structural firefighting clothing while engaged in fighting wildland fires shall not expend more than one hour before rotating to rest and rehabilitation. Agencies may rotate crews to avoid the one-hour benchmark when containing and controlling wildfires and wildland fires.

(8) Fire departments shall establish written procedures for the care, use, maintenance, and retirement criteria for wildland firefighting protective equipment in conjunction with the manufacturers' recommendations.

(9) Fire departments shall establish written procedures for the use of protective clothing and protective equipment while performing wildland firefighting activities.

(10) All wildland fire shelters purchased after the effective date of this rule must meet or exceed the United States Forest Services's Missoula Technology and Design Center

(MTDC) design criteria and performance requirements for "new generation fire shelters."

NEW SECTION

WAC 296-305-07014 Apparatus standards for wildland firefighting. This section applies to wildland fire apparatus meeting the NIMS ICS typing of a Type 3 through Type 7 engine, and intended for use combating fires occurring in natural vegetation or occurring in natural vegetation and threatening improvements.

(1) In a wildland fire, an engine may provide the primary protection for a crew in the event of unexpected fire behavior or an action that places the engine crew in a position of being exposed to heat and smoke.

(2) Apparatus speed shall be determined to be safe if in the judgment of the officer in charge, the following are taken into consideration:

(a) The particular wildland fire attack methods being utilized including, but not limited to, the nature of the fire, the type of terrain, weather conditions, equipment conditions, and whether personnel are positioned in wildland firefighting enclosures;

(b) The forgoing provision shall not relieve a driver from the duty to drive with due regard for the safety of all persons in all conditions;

(c) Nor shall such provision protect the driver from the consequences of his/her reckless disregard for the safety of others.

(3) Because of the sheltering offered by an engine, the following minimum standards shall be complied with:

(a) The number of individuals working/assigned as an engine crew shall not exceed the manufacturer's cab capacity.

(b) Any time an engine is moved when not directly attacking a fire, personnel shall ride in the vehicle's enclosed cabin area, in a seat-belted location, or be off the vehicle.

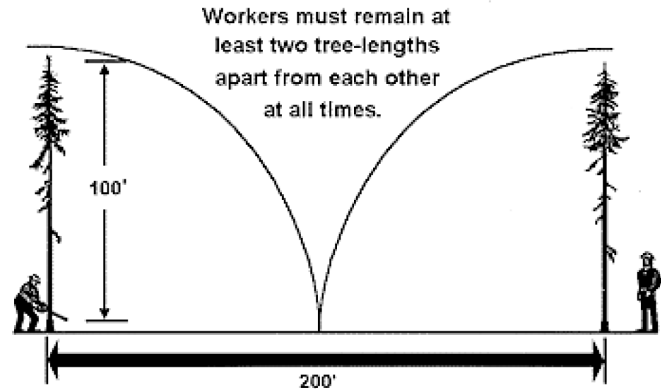
(c) Any time engines are used in a mobile attack configuration, and personnel other than the driver are on the apparatus, personnel shall ride in the manufacturer's enclosed cabin, or use the personnel restraints and enclosures identified in WAC 296-305-07018.

(d) All personnel working on or around engines in a ground mobile attack mode or in riding positions shall have visual or voice contact with the driver.

(e) Vehicles operating in smoke or dust shall have their headlights, and if so equipped, a flashing or rotating roof light illuminated.

NEW SECTION

WAC 296-305-07016 Falling and equipment in forest lands.



(1) The employer must assign work areas so that:

(a) Trees cannot fall into an adjacent occupied work area;

(b) The distance between work areas is at least two tree lengths of the trees being fell (see Figure 1: Distance Between Work Areas);

(c) The distance between work areas reflects the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at the worksite; and

(d) A distance of more than two tree lengths is maintained between work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

Exception: This rule does not apply to a team of cutters working on the same tree.

(2) Before falling or bucking, conditions such as, but not limited to, the wind, the lean of tree, dead limbs, and the location of other trees, must be evaluated by the cutter and precautions taken so a hazard is not created for an employee.

(3) Employees must not approach a cutter closer than two tree lengths of trees being felled until the cutter has acknowledged that it is safe to do so.

(4) A competent person, properly experienced in this type of work, must be placed in charge of falling and bucking operations. Inexperienced workers must not be allowed to fall timber, buck logs or windfalls unless working under the direct supervision of an experienced cutter.

(5) Before an employee falls or bucks any tree:

(a) A sufficient work area must be swamped.

(b) The cutter must plan and clear an escape path.

(i) The escape path must extend diagonally away from the expected felling line unless such an escape path poses a greater hazard than an alternate escape path.

(ii) An escape path must be used as soon as the tree or snag is committed to fall, roll, or slide.

(6) If a cutter has determined a tree cannot be safely fell, the work must stop until the cutter has conferred with a supervisor or an experienced cutter and determined the safest possible work method or procedure.

(7) The person in charge of cutting crews must regularly inspect the work of the cutting crews and is responsible to ensure the work is performed in a proper and safe manner.

(8) All cutters must carry or have in near proximity at all times:

(a) An axe or suitable tool for driving wedges.

(b) A minimum of two wedges.

(c) A first-aid kit.

(9) Where felled trees are likely to roll and endanger workers, cutting must proceed from the bottom toward the top of the slope, and uphill from previously fell timber.

(10) A cutter must not be placed on a hillside immediately below another cutter or below other operations where there is probable danger.

(11) Cutters must be informed of the movement and location of other employees placed, passing, or approaching the vicinity of trees being fell.

(12) Trees must be fell into the open whenever conditions permit.

(13) Domino falling of trees, including danger trees, is prohibited. Domino falling does not include the falling of a single danger tree by falling another single tree into it.

(14) Undercuts large enough to safely guide trees and eliminate the possibility of splitting must be used on all trees over six inches diameter at breast height.

(15) A cutter must place an adequate undercut and leave enough holding wood to ensure the tree will fall in the intended direction.

(16) The two cuts that form the undercut must not cross where they meet.

(17) The undercut must not be made while other workers are in an area into which the tree could fall.

(18) A backcut must be made in each tree being fell.

(a) The backcut must be as level as possible;

(b) The backcut must leave enough hinge wood to hold the tree to the stump during most of its fall so that the hinge is able to guide the tree's fall in the intended direction; and

(c) The backcut must be above the level of the horizontal facecut to provide an adequate platform to prevent kickback.

(19) Trees with facecuts and/or backcuts must not be left standing unless all the following conditions are met:

(a) The cutter clearly marks the tree;

(b) Discontinues work in the hazardous area;

(c) Notifies all workers who might be endangered; and

(d) Takes appropriate measures to ensure that the tree is safely fell before other work is undertaken in the hazardous area.

(20) Undercuts and backcuts must be made at a height above the highest ground level to enable the cutter to safely begin the cut, control the tree, and have freedom of movement for a quick escape from a falling tree.

(21) Lodged trees must be clearly marked and identified by a predetermined method and all persons in the area must be instructed not to pass or work within two tree lengths of the trees except to ground them.

(22) On slopes over fifty percent grade, tree(s) must at least be quartered to a degree that prevents employees from being exposed to the possibility of sliding or rolling trees or logs.

(23) Each danger tree must be carefully checked for signs of loose bark, broken branches and limbs, or other damage before they are fell or removed. Accessible loose bark and other damage that may create a hazard for an employee must be removed or held in place before falling or removing the tree. When a danger tree has elevated loose bark that can-

not be removed, the buddy system must be used to watch for and give warning of falling bark or other hazards.

(24) Danger trees that are unsafe to cut must be blown down with explosives or fell by other safe methods.

(25) To avoid use of wedges, which might dislodge loose bark or other material, danger trees must be fell in the direction of lean unless other means (mechanical or dynamite) are used.

(26) All bosses and supervisors must survey their assigned work area for danger trees and mitigate them prior to crews commencing work in that area.

Definition.

Danger trees: Any tree of any height, dead or alive, that presents a hazard to workers because of rot, root, stem or limb damage, lean, or any other observable condition created by natural process or man-made activity.

(27) All fallers and faller bosses must be trained in the type of timber they will be falling prior to being assigned to a falling crew.

(28) All dozers, tractors, and similar machines in use where limbs or brush may injure the operator must be guarded as follows:

(a) Shear or deflector guards must be installed on each side of the vehicle at an angle leading forward and down from the top front edge of the canopy of the vehicle, which will tend to slide the brush or limbs up and over the top of the canopy.

(b) Open mesh material with openings of a size that will reject the entrance of an object larger than one and three-quarter inches in diameter, must be extended forward as far as possible from the rear corners of the cab sides to give the maximum protection against obstacles, branches, etc., entering the cab area.

(c) Deflectors must also be installed ahead of the operator to deflect whipping saplings and branches.

(d) Deflectors must be located so as not to impede entrance to or exit from the compartment area.

(e) The floor and lower portion of the cab must be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(29) All dozers used on terrain that has sufficient slope or of such material as to hinder the movement of the dozer must have an attached winch or drum line that is in good working order. When such a situation is encountered, the dozer assistant must be knowledgeable in the operation of the dozer, winch or drum line operations, the hazards associated with winching or drum line operations, and line anchor selection.

(30) Operators must operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(31) Employee work areas must be spaced and employee duties organized so the actions of one employee do not create a hazard for any other employee.

NEW SECTION

WAC 296-305-07018 Occupant restraints and enclosures for wildland firefighting. (1) While in motion, the driver and passengers in the cab shall wear seat belts.

(2) Seat belts shall comply with the U.S. Department of Transportation, Part 49 CFR, Section 571, Standards 209 and 210.

(3) Passengers on wildland vehicles shall use a safety belt or a short lanyard securely connected to the apparatus.

(a) Safety belts or lanyards shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of one thousand five hundred pounds per person or a 4:1 safety factor.

(b) Safety lanyard lengths shall not allow for the firefighter to reach the ground.

(4) Safety belts shall be constructed and maintained in compliance with ANSI A10.14-1975.

(5) Lanyards shall be a minimum of one-half inch nylon or equivalent with a nominal breaking strength of five thousand four hundred pounds.

(6) The structural components for wildland vehicle enclosures shall be constructed of metal tubing not less than one inch in diameter, capable of supporting a minimum of one thousand five hundred pounds per person, a 4:1 safety ratio or the equivalent. This applies to vehicle enclosures manufactured after the effective date of this chapter.

(7) The enclosure shall be constructed to a minimum toprail height of forty-two inches and shall include a midrail and either a toeboard at least four inches high or a bottom rail a maximum of six inches from the platform.

(8) Access door(s) and latching mechanisms to tail board enclosures shall be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure.

(9) A strap or butt-bar utilized for the fourth side of the enclosure shall be a minimum of a four-inch nylon strap capable of supporting one thousand five hundred pounds dead weight.

(10) While actively fighting a fire in the mobile attack mode, firefighters shall either remain in a three-sided enclosure and use a safety lanyard, or remain in a four-sided enclosure.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-08000 Appendices. These appendices are nonmandatory and are included to reference and information purposes only.

Appendix A — Recommended cleaning procedures for protective turnout clothing and station uniforms.

(1) Protective clothing should be washed separately from other garments.

(2) Do not use chlorine bleach (sodium hypochlorite) as this will adversely affect the tear strength of your protective clothing and lessen its life. Oxygenated bleaches such as Liquid Clorox II, and Vivid may be used.

(3) Protective clothing may be spot treated or pretreated for hard to remove stains with products such as liquid Spray

and Wash, liquid Tide, liquid dishwashing detergent or liquid Shout.

Note: The use of brand names is intended only to indicate a type of cleaning agent. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is inferior. Solvents should not be used as they lessen the life of the garment, reduce visibility on the trim, and degrade leather.

(4) When pretreating or spot treating a garment, apply the detergent onto the soiled area. Gently rub the fabric together until a light foam appears on the surface. Use a soft bristle brush (toothbrush type) and scrub the area for about one and one-half minutes. Reapply liquid detergent onto the soiled area and place the garment into the washing machine.

(5) When cleaning turnout clothing the garment should be turned inside out, the hooks and dees fastened, the liner removed, and the garment placed in a laundry bag. These instructions can be used for cleaning any wash loads in a large capacity (sixteen gallon) top loading or front loading machine. Load the machine with any one of the following combinations - do not overload:

(a) One protective coat and one pair of trousers.

(b) Two protective coats.

(c) Two protective pair of trousers.

Note: Heavily soiled garments should be treated as outlined in (4).

(6) While the washing machine is filling with hot water (temperature between 120 degrees F and 130 degrees F), add one-half cup (four ounces) of liquid oxygenated bleach and one cup (eight ounces) of liquid detergent.

(a) Fill washing machine to highest water level((:)).

(b) Add garments to be washed((:)).

(c) Set washing machine for normal cycle, cotton white, or similar setting.

(d) Machines should be programmed for a double rinse. If the machine will not automatically double rinse, a complete second cycle can be run without adding detergent or oxygenated bleach. Double rinse helps remove any residual dirt and ensures detergent removal.

(e) Remove garments from washing machine when done and dry by hanging in a shaded area that receives good cross ventilation, or hang on a line and use a fan to circulate air. A water extractor may be utilized.

(f) After the garments have been removed, run the laundry machine empty or with a dummy (rag) load with detergent at least once; but preferably several times to purge the machine of any residue.

(7) Inspect and examine the trim as to the effectiveness of the trim performance under daytime and nighttime conditions. It is important that a high visibility be maintained at all possible orientations to the light source.

(8) The above procedures can be used for any article of clothing issued that is not contaminated with bloodborne pathogens or any other infectious disease. For clothing exposed to hazardous materials, consult the manufacturer or the appropriate decontamination document.

(9) Procedure for clothing (except wool clothing) that has been exposed to bloodborne pathogens or infectious diseases.

(a) Disposable gloves should be used when handling contaminated clothing.

(b) Each station should have an area designated for the cleaning of equipment. The area designated should not be near kitchen, living, sleeping, or personal hygiene areas.

(c) Contaminated clothing should be handled as little as possible with a minimum of agitation. Contaminated clothing should be cleaned as soon as possible. When the on-coming shift has to clean contaminated clothing for the off-going shift, all contaminated clothing should be stored in red bio-hazard bags, properly sealed to prevent the spread of potential contamination.

(d) To clean clothing that has been contaminated, a germicidal detergent should be used. Such germicidal should be EPA approved and effective as staphylocidal, pseudomonacidal, virucidal, and ((~~fungicidal~~) fungicidal) fungicidal detergent.

(e) The germicidal detergent is intended to be a complete disinfecting and cleaning agent when mixed according to the manufacturer's directions. Do not add any chemical or detergent to the germicidal solution. After the clothing has been disinfected the clothing should be washed as outlined under normal use.

(f) Wool uniforms should be spot cleaned, placed in the red biohazard bags and sent to an industrial laundry for cleaning.

(10) Helmets, gloves, hoods, and boots should be cleaned as follows:

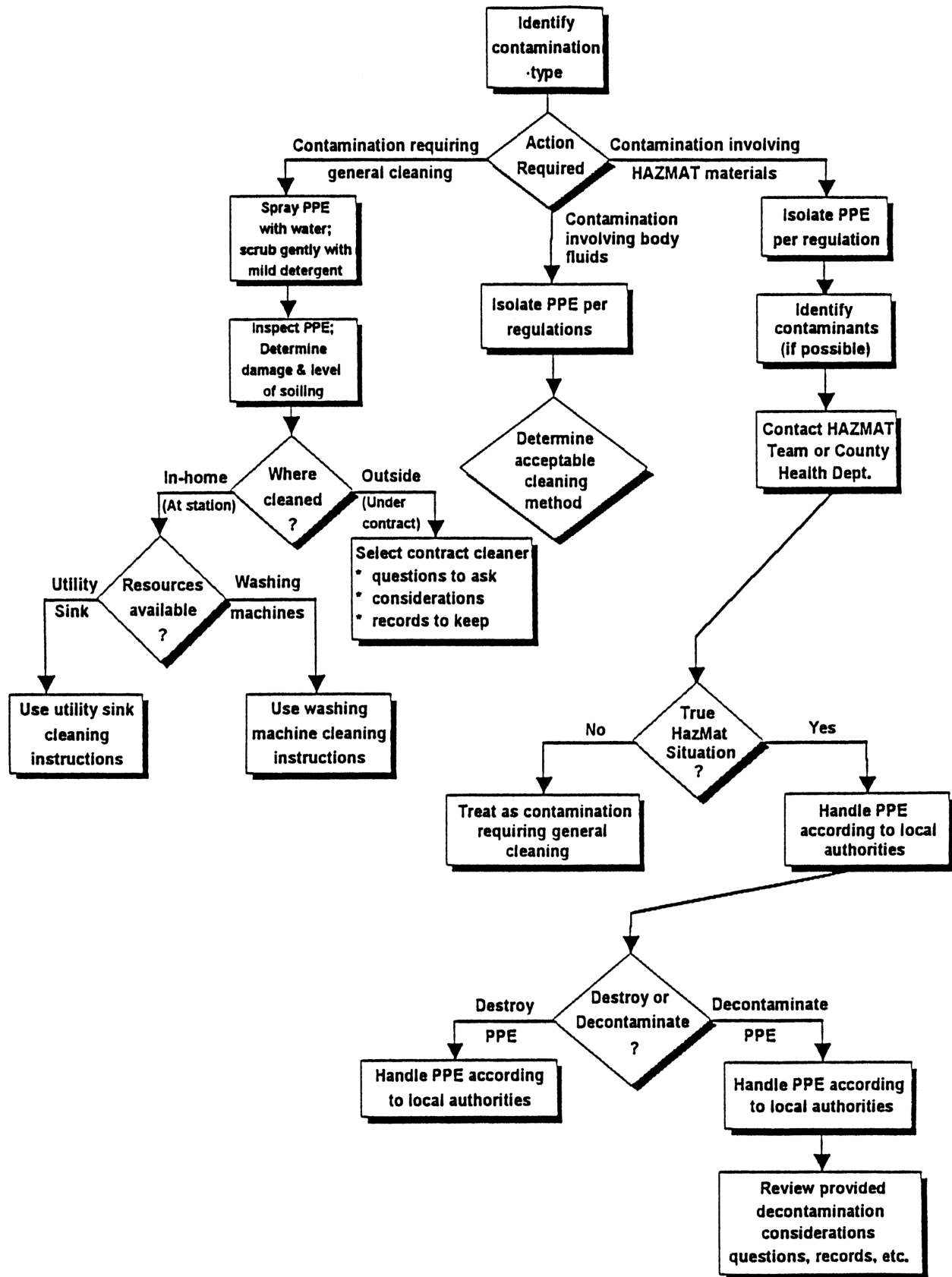
(a) Pre-clean using a germicidal solution and scrub all contaminated areas with a soft bristled brush. Rinse with clean water. Dispose of the pre-cleaning solution by pouring it down the drain in the cleaning area.

(b) Using a fresh germicidal solution, repeat the above procedure allowing the areas to remain wet for a minimum of fifteen minutes. Double rinse with clean water and air dry. Dispose of the solution by pouring it down the drain in the cleaning area.

(c) For gloves, use a third fresh water rinse, squeezing and rinsing several times. Dispose of the solution by pouring it down the drain in the cleaning area.

(11) Front loading industrial laundry machines are designed for the type of cleaning required for protective clothing. Machines are available from Milnor, Model 30015C6M-AAC, for washing; or a Huebsch Originator, Model 3705H, for a dryer.

Note: The use of brand names is intended only to indicate a type of cleaning equipment. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is inferior.



PPE Cleaning and Decontamination Decision-Making Process

Appendix B — Life safety ropes. (1) Life safety rope may be significantly weakened by abrasion, misuse, contamination, wear, and stresses approaching its breaking strength, particularly impact loading. Since there are no approved methods to service test a rope without compromising its strength, rope rescue and training operations should be carefully observed and monitored for conditions that could cause immediate failure or result in undetectable damage to the rope.

(2) If a rope has been used in a situation that could not be supervised or where potential damage may have occurred, it must be removed from service and destroyed.

(3) It is important that ropes be inspected for signs of wear by qualified individuals after each use. If indication of wear or damage are noted, or if the rope has been stressed in excess of the manufacturer's recommendation or impact loaded, it must be destroyed.

(4) The destruction of the rope means that it must be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This alteration could include disposing of the rope, or removal of identifying labels and attachments, and cutting the rope into short lengths that could be used for utility purposes.

(5) The assignment of "disposable" life safety ropes to members or to vehicles has proved to be an effective system to manage ropes that are provided for emergency use and are used infrequently. Special rescue teams, which train frequently and use large quantities of rope, should include members who are qualified to manage and evaluate the condition of their ropes and determine the limitations upon their reuse.

Appendix C — Decontamination. (1) A decontamination area should be established whenever civilians or fire department personnel have had known or suspected exposure to toxic chemicals.

(2) Such decontamination areas should be established before any personnel are allowed to enter the "Hot" zone.

(3) The decontamination area should be set up using the following guidelines:

(a) The decontamination area should be located uphill, upwind and at a right angle to the "Hot" zone.

(b) The decontamination area entry/exit point and boundaries should be clearly marked using flagging tape, ropes, cones, etc.

~~((3))~~ ~~Visqueen~~ (4) 4 to 6 mil poly sheeting should be spread on the ground in the decontamination area to control runoff.

~~((4))~~ (5) The decontamination process is divided into stations. In most cases it will not be necessary to utilize all the stations. The decision to use all or part of the stations should be based on the following factors:

(a) The hazards associated with the product involved.

(b) The estimated levels of contamination.

(c) The type of protective equipment worn by contaminated responders.

(d) Recommendations from outside sources such as, but not limited to CHEMTREC, the agency for toxic substance and disease registry, poison control centers or the manufacturer of the product.

~~((5))~~ (6) The following is a list of all the stations in a nine-step decontamination area set up for a worst case sce-

nario involving a hazardous materials response team member whose chemical suit has been breached:

(a) Station #1 - Segregated equipment drop: Contaminated equipment that will be used again in the "Hot" zone, disposed of, or decontaminated at a later time or place, will be deposited here.

(b) Station #2 - Wash/rinse: Entry personnel will be washed with appropriate decontamination solution and rinsed with water by attendant(s) to remove gross contamination. This station may consist of multiple wash/rinse steps depending on the severity of the hazards involved.

(c) Station #3 - Outer protective clothing removal: Attendant(s) will remove the outer protective clothing from entry personnel being cautious to avoid touching the inside of the suit while removing it. Protective clothing that has been removed at this step shall be placed in an overpack or other appropriate container for later testing and further decontamination, if needed.

(d) Station #4 - Removal of SCBA: The entry personnel are assisted in removing their SCBA by an attendant. The SCBA facepiece should be left in place and the low pressure hose held away from any potentially contaminated inner clothing.

(e) Station #5 - Removal of inner clothing: All clothing worn inside the suit must be removed in cases where the suit has been penetrated and the entry personnel are contaminated.

(f) Station #6 - Personal shower: Entry personnel should wash and rinse entire body with mild soap and water. Contain runoff water if possible, however this is an emergency situation and containment is secondary to removing contaminants from personnel.

(g) Station #7 - Drying off: Entry personnel that have showered should dry off using towels or whatever is available. Items used should be placed in an appropriate container for disposal. Emergency clothing such as disposable coveralls should be provided.

(h) Station #8 - Medical evaluation: Entry personnel should be evaluated by paramedics - checking vital signs including temperature and level of consciousness. Records of the evaluation must be kept and given to the team safety officer to be included in the members exposure records.

(i) Station #9 - Transport to emergency room: Any personnel exhibiting any signs or symptoms of exposure should be transported to the emergency room for evaluation and observation.

~~((6))~~ (7) The hazardous materials response team van should carry premeasured packets of decontamination solution mixes for the purpose of decontaminating chemical protective clothing and other equipment at the scene of a hazardous materials emergency. These solutions are not to be used to decontaminate turnouts or exposed skin under any circumstances.

~~((7))~~ (8) The primary solution used will be a simple detergent and water mixture. Other special decontamination solution mixes will only be used in those situations when it is determined that the detergent and water solution is inappropriate.

~~((8))~~ (9) Contaminated civilians that are exhibiting signs or symptoms of exposure should be treated as patients.

Due to the risk of secondary contamination, all patients should undergo emergency field decontamination at the scene before being evaluated by medical personnel or being transported to the emergency room. Medical personnel should not accept any patient that has not been grossly decontaminated.

~~((9))~~ (10) The emergency field decontamination process should consist of removing the clothing from all affected body parts of the exposed person and flushing with copious quantities of water from a garden hose or low pressure one and three-quarter inch handline to remove gross contamination. Patients will be flushed for up to fifteen minutes, depending on the material recommendations on patient decontamination.

~~((10))~~ (11) Members performing patient decontamination should wear, at a minimum, full turnouts and SCBA and should avoid splashes and overspray to the extent possible. They should also undergo decontamination when they have finished decontaminating the patient.

~~((11))~~ (12) Containment of the runoff water from patient decontamination is not required. Do not delay decontamination of patients to set up containment. However, some form of privacy screen should be erected to protect the modesty of those being decontaminated.

~~((12))~~ (13) Responders that are contaminated in the process of performing rescue or other tasks will, at the minimum, be flushed with water for a minimum of one minute. Further flushing will be performed depending on the extent of contamination and subsequent adverse health effects.

~~((Appendix D—Wildland Firefighting Equipment Typings:~~

	PUMP RATE GMP MINIMUM	TANK CAPACITY IN GALLONS
PUMPER/BRUSH ENGINE:		
ICS Type 7	20	125
ICS Type 6	50	200
ICS Type 5	50	500
ICS Type 4	70	750
ICS Type 3	120	300
PUMPER/CLASS A RATED:		
ICS Type 2	500	400
ICS Type 1	1000	400

- ~~Ten standard fire orders~~
- ~~Fight fire aggressively but provide for safety first.~~
- ~~Initiate all action based on current and expected fire behavior.~~
- ~~Recognize current weather conditions and obtain forecasts:~~
 - ~~Ensure instructions are given and understood.~~
 - ~~Obtain current information on fire status.~~
 - ~~Remain in communication with crew members, your supervisor, and adjoining forces.~~
 - ~~Determine safety zones and escape routes.~~
 - ~~Establish lookouts in potentially hazardous situations.~~
 - ~~Retain control at all times.~~
 - ~~Stay alert, keep calm, think clearly, act decisively.~~

~~Four common denominators of tragedy fires~~

- ~~1. Small fires or relatively quiet sectors of large fires.~~
- ~~2. Light fuels.~~
- ~~3. Steep slopes.~~
- ~~4. Change in wind speed and/or direction.~~

~~"Watch Out" Situations~~

- ~~1. Fire not scouted and sized up.~~
- ~~2. In country not seen in daylight.~~
- ~~3. Safety zones and escape routes not identified.~~
- ~~4. Unfamiliar with weather and local factors influencing fire behavior.~~
- ~~5. Uninformed on strategy, tactics and hazards.~~
- ~~6. Instructions and assignments not clear.~~
- ~~7. No communication link with crew members or supervisor.~~
- ~~8. Constructing line without safe anchor point.~~
- ~~9. Building fire line downhill with fire below.~~
- ~~10. Attempting frontal assault on fire.~~
- ~~11. Unburned fuel between you and fire.~~
- ~~12. Cannot see main fire, not in contact with someone who can.~~
- ~~13. On a hillside where rolling material can ignite fuel below.~~
- ~~14. Weather becoming hotter and drier.~~
- ~~15. Wind increases and/or changes direction.~~
- ~~16. Getting frequent spot fires across line.~~
- ~~17. Terrain and fuels make escape to safety zones difficult.~~
- ~~18. Taking nap near fire line.~~

~~National Wildlife Coordinating Group Firefighter II Performance Tasks~~

- ~~1. Agency policy for wildfires.~~
- ~~2. Extended attack fire orientation and dispatch.~~
- ~~3. Inmate orientation.~~
- ~~4. Fire line organization.~~
- ~~5. Tools and equipment.~~
- ~~6. Firing devices.~~
- ~~7. Wildland water delivery systems and pump use.~~
- ~~8. Introduction to wildland fire behavior.~~
- ~~9. Fire line safety.~~
- ~~10. Size up and initial attack.~~
- ~~11. Fire line construction.~~
- ~~12. Wildland fire investigation.~~
- ~~13. Structure protection.~~
- ~~14. Use of foam.~~
- ~~15. Mop up.~~
- ~~16. Compass use.~~
- ~~17. Map use.~~
- ~~18. Radio communications.~~
- ~~19. Incident command system.~~
- ~~20. Basic first aid.~~
- ~~21. Hazardous materials awareness.))~~

Appendix D

Guidelines for Managing Two-in/Two-out

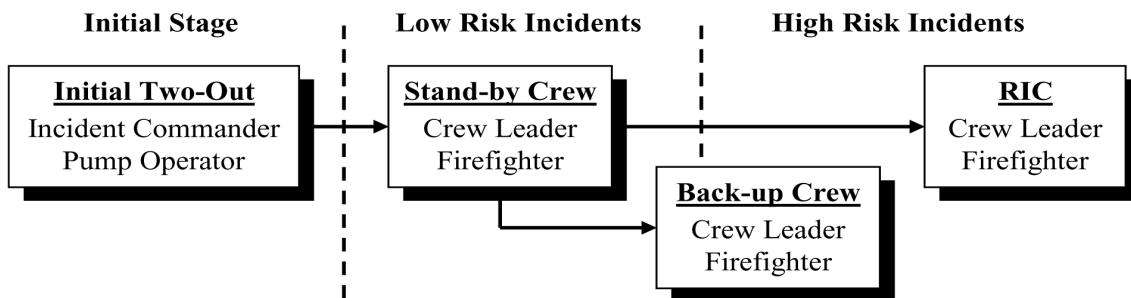
Rapid Intervention (Two-in/Two-out)

Incident Commanders must maintain rapid intervention capability (Two-out) so that, should the need arise, a rescue crew is readily available to provide for the rescue of any responders operating within a hazard area (Two-in). A hazard area is defined as any area that requires the use of PPE or in which a responder is at risk of becoming lost, trapped, or injured by the environment or structure. This includes entering a structure reported to be on fire, operating in close proximity to the structure during exterior operations, confined space operations, rope rescue, haz-mat, etc.

Rapid Intervention is the **systematic management** of response to a “Mayday” situation where the need for an immediate rescue of emergency responders has become necessary.

Responsibility – Incident Commanders are ultimately responsible for the incident outcome and the safety of all responders operating at the scene. Therefore, Incident Commanders must maintain a constant balance between the urgent need to perform critical tasks and the personal safety of the responders performing those tasks. To support this, and before responders can be assigned to operate within a hazard area, Incident Commanders must establish a two-out resource capable of providing rapid intervention. Incident Commander must maintain this capability throughout the incident until the risk to responders has been sufficiently mitigated.

Providing Two-Out Capability – The methods for providing Two-out should match the incident’s degree of potential risk and can evolve as resources become available. The following flowchart provides a decision-making guideline, illustrating a model sequence for determining how, and to what extent. Two-out capability should be provided so that it corresponds with the incident stage, size, complexity, and level of risk to responders.



For high risk incidents, a RIC should be assigned, given time to prepare, while the Stand-by Crew provides two-out. Once ready, the RIC replaces the Stand-by Crew who can move up to Back-up.

Two-Out Staffing Options

Initiating Two-out – During the “Initial Stage” of an incident, the two-out provision may be provided as a secondary responsibility by the Pump Operator and the Incident Commander.

The “Initial Stage” of an incident is defined as the stage that encompasses the tasks undertaken by the first arriving company with only one crew assigned or operating in the hot zone.

Once a second crew is assigned to operate within the hazard area, the incident is no longer in the “Initial Stage”. With multiple crews operating in a hazard area, the Incident Commander and Pump Operator’s ability to realistically function as an effective two-out rescue crew drastically diminishes. At this point, the Incident Commander shall assign a dedicated crew of two-out, which may be in the form of a Stand-by Crew or a RIC.

The IC and Pump Operator can only initiate Two-out during the Initial Stage

Stand-by Crew - A Stand-by Crew is assigned when the Incident Commander opts not to assign a RIC Crew. This would be done as a short term assignment for incidents that can be quickly and safely mitigated because they are contained, limited to contents, and are of minimal risk to responders. Examples include a smoldering mattress, an appliance fire, or a stovetop fire.

Standby Crews are assigned as a short term two-out provision for low risk incidents

A Stand-by Crew can also be assigned as an interim step while waiting for a RIC to arrive and/or assemble. A Stand-by Crew consists of at least two firefighters held outside the hazard area, available for immediate assistance or rescue of an entry crew. Once relieved by a RIC, the Stand-by Crew may be assigned to become a Back-up Crew.

Rapid Intervention Crew (RIC) – Functionally synonymous to a Stand-by Crew, a RIC is assigned for high risk incidents involving sustained operations to replace the Stand-by Crew. A RIC consists of at least two firefighters held outside the hazard area available for immediate assistance or rescue of an entry crew operating within the hazard. It must be recognized that a RIC alone may not be adequate when it comes to actually conducting a rescue of a trapped firefighter. Therefore, it must be understood that the primary role of a RIC is only to initiate the rescue effort.

RIC should be assigned to replace the Stand-by Crew during high risk incidents

- The primary role of a Stand-by Crew or RIC is to:
1. **Locate** and gain access to the firefighter in peril;
 2. Provide them with **emergency air** management; and to
 3. Provide **reconnaissance** information to the Incident Commander for the coordination of additional crews assigned to support the rescue effort. **Rescue if able.**

RIC effectiveness is limited to only reacting to a rescue situation

Back-up Crews

Back-up Crews are strategically pre-positioned in the immediate vicinity of crews operating in areas with a high level of risk. A pre-positioned back-up crew is the most familiar with the other crew’s location, situation, the hazards they are exposed to, and the immediate surroundings. A back-up crew’s placement also positions them to better recognize a potential or developing “Mayday” situation, enabling them to immediately intervene, thus averting a “Mayday” situation.

Back-up Crews provide protection because they are positioned in a manner that allows them to initiate actual intervention

Back-up Crews are intended to provide a crew of at least two members positioned offensively with a charged hose line and/or other applicable equipment. Back-up Crews operate with three given priorities. In coordination with the Incident Commander and in order of priority, they are assigned for the specific purpose of:

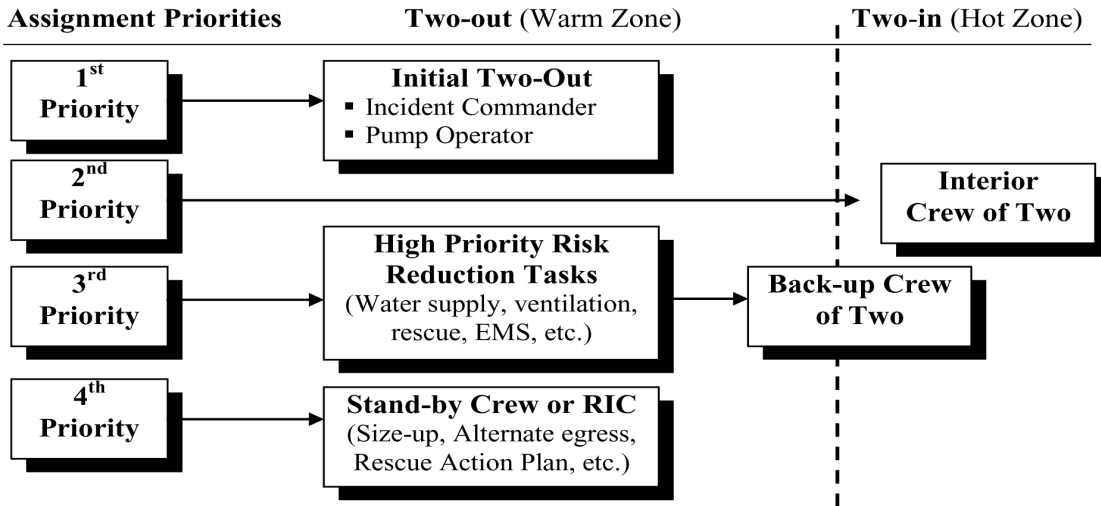
1. As dictated by fire and/or other hazardous conditions, protecting the means of egress for interior crews;
2. Serving as the Incident Commander’s eyes and ears specifically to assess conditions within the Hot Zone, conveying risk assessment reconnaissance information to the Incident Commander, monitoring conditions, and if conditions begin to deteriorate, immediately initiating the appropriate form of intervention;
3. If priorities 1 and 2 are accounted for, conducting a primary search, or supplement initial fire attack efforts.

Although protecting egress is the Back-up Crew’s primary responsibility, they may also support entry crews with hose advancement, victim removal, monitoring fire extension, etc.

As a general guideline, Back-up Crews are assigned with the following progression:

- If an entry crew is assigned to enter the hazard area, a Stand-by Crew or RIC must also be assigned as the two-out provision for providing rapid intervention capability.
- If a RIC has been assigned, the Stand-by Crew can move up to become the Back-up Crew.

Deployment Order of Priority (Structure Fire Example) – Though maintaining Two-in/Two-out is a requirement, how the Incident Commander chooses to do so is flexible. The following flowchart provides a decision-making guideline for planning tactical assignments while maintaining Two-in/Two-out. The following sequence is intended to guide crew deployment in a manner that balances the need to initiate and establish a Two-out crew while also assigning crews to critical incident mitigation tasks within the hazard area.



Adjacent and Additional Crews

Case studies prove that a Stand-by Crew or RIC operating alone may not be sufficient when rescuing a trapped firefighter when extrication and/or rescue are required. Rescue efforts will likely require the support of additional crews to provide extrication equipment and rescue personnel. To create these supporting crews the Incident Commander can reassign adjacent crews or assign additional crews, generally a combination of the two.

Adjacent Crews – When a crew declares a “Mayday”, the rescue efforts initiated by other crews operating in close proximity is nearly as effective as what a back-up crew can provide. Adjacent crews may be in a position to suspend their current assignment and immediately initiate rescue efforts. But if an adjacent crew is performing an activity that will protect rescue efforts, they should not be re-assigned if suspending their current assignment would potentially compromise this protection. Re-assignment of adjacent crews does not preclude the deployment of the Stand-by Crew or RIC. The primary role of the Stand-by Crew or RIC is to locate the firefighters in peril, provide them with emergency air management, and to facilitate their rescue.

Crews must not self-dispatch!

Additional Crews – When a crew declares a “Mayday, Mayday, Mayday”, additional crews can be assigned by the Incident Commander to support rescue efforts or to replace adjacent crews who were re-assigned to the rescue effort. Additional crews will generally be deployed from a staging area.

Resource Reserve – Incident Commanders should maintain a reserve of resources so that if a rapid intervention must be initiated, they have enough resources to support the rescue effort while continuing to sustain the original incident operations. Often this means calling for additional resources, second, or third alarms. Early consideration should be given to assure these reserve resources are on scene and available when needed.

Appendix E—Standard apparatus operation communications.

When firefighters ride in the tiller's seat or other remote location, an electrical signal or voice communication should be installed between the tiller's seat, work station, and driver's compartment.

(1) These signals should be used between the driver and the firefighters:

- (a) One long buzz means stop;
- (b) Two buzzes mean forward;
- (c) Three buzzes mean reverse.

(2) Before any of the above functions are undertaken, with the exception of stopping, the same signal must be both sent and received. The driver should not act without sending and receiving a confirming signal.

(3) When using hand signals, these signals are as follows:

STOP

Hold hand to the side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand (~~shinning~~) shining at the driver. This will indicate an immediate STOP.



STOP

Hold hand to the ~~(the)~~ side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand shining at the driver. This will indicate an immediate STOP.

RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with the other hand at the chest level. At night direct a flashlight beam at the hand pointing in the desired direction.



RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with other at the chest level. At night, direct a flashlight beam at the hand pointing in the desired direction.

DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for drivers reaction time.

At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for divers reaction time. At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.

AHEAD OR ((BACK-UP)) BACK UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come-

on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.



AHEAD OR BACK UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in circular "come-on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-305-01002 Effective date.
- WAC 296-305-01009 Appeals.
- WAC 296-305-02003 Eye and face protection.
- WAC 296-305-02005 Hearing protection.
- WAC 296-305-02007 Hand protection.
- WAC 296-305-02009 Body protection.
- WAC 296-305-02011 Body armor.
- WAC 296-305-02013 Foot protection for structural firefighting.
- WAC 296-305-02015 Head protection.
- WAC 296-305-03001 Hazardous materials protection.
- WAC 296-305-04509 Aerial ladders.
- WAC 296-305-04511 Elevated platforms.
- WAC 296-305-05001 Emergency fireground operations—Structural.
- WAC 296-305-05003 Confined space rescue operations.
- WAC 296-305-05005 Rope rescue operations.
- WAC 296-305-05007 Trench rescue operations.
- WAC 296-305-05009 Watercraft rescue operations.
- WAC 296-305-05011 Hazardous materials operations.

WAC 296-305-05501	Fire training.
WAC 296-305-05503	Summary of training requirements.
WAC 296-305-06005	Ground ladders.
WAC 296-305-06007	Electrical.
WAC 296-305-07003	Personal protective clothing and equipment for wildland firefighting.
WAC 296-305-07005	Respiratory protection for wildland firefighters.
WAC 296-305-07007	Wildland personnel accountability.
WAC 296-305-07009	Apparatus standards for wildland firefighting.
WAC 296-305-07011	Occupant restraints and enclosures for wildland firefighting.
WAC 296-305-07013	Equipment for wildland firefighting.
WAC 296-305-07015	Aircraft operations for fighting wildland fires.
WAC 296-305-07017	First aid for wildland firefighters.
WAC 296-305-07019	Training for wildland firefighting.

WSR 10-18-079
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 31, 2010, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-165 on June 23, 2010.

Title of Rule and Other Identifying Information: Independent medical examinations (IMEs), WAC 296-23-317 What qualifications must a provider meet to become an approved independent medical examination (IME) provider and be assigned an IME provider number? and 296-23-337 For what reasons shall the department's medical director or designee suspend or terminate approval of an independent medical examination (IME) examiner or firm?

Hearing Location(s): Tukwila L&I Service Location, 12806 Gateway Drive, Tukwila, WA 98168-1050, on October 5, 2010, at 1:00 p.m.; and at the Spokane L&I Service Location, 901 North Monroe Street, Suite 100, Spokane, WA 99201-2149, on October 12, 2010, at 9:00 a.m.

Date of Intended Adoption: December 10, 2010.

Submit Written Comments to: Anita L. Austin, P.O. Box 44322, Olympia, WA 98504-4322, fax (360) 902-4292, by October 25, 2010.

Assistance for Persons with Disabilities: Contact Anita L. Austin by September 27, 2010, (360) 902-6825 or fax (360) 902-4249.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Our rules require board certification for providers to perform independent medical exams. This applies to all medical, osteopathic, and podiatric physicians as well as dentists. Because only dentists with specialties are board certified, we must change the rules to allow all licensed dentists to be on the approved examiner list.

Reasons Supporting Proposal: The proposed rules are responsive to stakeholder feedback. These rules also support the department's continuing efforts to improve the quality of the process and the IME examination and report, which ultimately affect the resolution of workers' compensation claims.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.32.112, 51.32.114, 51.32.055, 51.36.060, 51.36.070.

Statute Being Implemented: RCW 51.32.112, 51.32.114, 51.32.055, 51.36.060, 51.36.070.

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

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

Name of Agency Personnel Responsible for Drafting: Anita L. Austin, Tumwater, Washington, (360) 902-6825; Implementation and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule changes are proposed to clarify the procedure and correct the scope of the current rules. Therefore, the department is exempt from conducting a small business economic impact statement under RCW 19.85.025 referencing RCW 34.05.310 (4)(d) respectively.

A cost-benefit analysis is not required under RCW 34.05.328. The rule changes are proposed to clarify the procedure and correct the scope of the current rules. Therefore, the department is exempt from conducting a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv).

August 31, 2010

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 09-24-085, filed 11/30/09, effective 3/1/10)

WAC 296-23-317 What qualifications must a provider meet to become an approved independent medical examination (IME) provider and be assigned an IME provider number? ~~((In order))~~ To ensure that independent medical examinations are of the highest quality and propriety, examiners(;) and firms(;) (partnerships, corporations, or other legal entities) that derive income from independent medical exams must apply and meet the following requirements for department approval:

(1) ~~((For all))~~ Examiners ~~((applicants))~~ must:

(a) Have a current, unrestricted, and active professional license to practice in this state or in any other jurisdiction where the applicant would conduct an examination.

(i) Unrestricted is defined as not currently having a temporary or permanent probation, suspension, revocation or any other limitation of any kind placed on a professional license or privilege to practice by any court, board, or administrative agency in any jurisdiction.

(ii) If any restriction once existed against the applicant's license, the department must automatically deny the application if the applicant's record has not been clear for at least five years. If after five years the record has been cleared, then the department exclusively reserves the right to grant or deny the application based on the nature of the prior restriction.

(iii) Exception to the five-year limit may be granted for any restriction or offense deemed by the department to be of a minor or clerical nature.

(iv) If an applicant has any pending action on their privilege to practice by any court, board, or administrative agency, or by any health care institution such as a hospital in any jurisdiction, the department exclusively reserves the right to grant or deny the application based upon the nature of the action.

(b) Have no final action by the department to suspend or revoke a previously assigned provider number as a treating provider or independent medical (~~(provider)~~) examiner.

(i) If the applicant has any criminal history, history of a violation of statutes or rules by any administrative agency, court or board in any jurisdiction, the department must automatically deny the application if such history exists within five years of the application. If such history exists but is older than five years, then the department exclusively reserves the right to grant or deny the application based upon the nature of the history.

(ii) Exception to the five-year limit may be granted for any restriction or offense deemed by the department to be of a minor or clerical nature.

(c) (~~(If an applicant has any)~~) Have no pending action in any jurisdiction(~~(s)~~). The department will not process the application until the matter has been resolved.

(d) (~~(Applicants must)~~) Attest that all information submitted on the application is true and accurate and must sign under penalty of perjury.

(e) (~~(Other requirements:~~

~~(i) Providers must))~~ Comply with all federal (~~(and)~~), state, and local laws, regulations, and other requirements with regard to business operations, including specific requirements for the provision of medical services.

(~~(ii) Providers must))~~ (f) Adhere to the independent medical examination standards of conduct, and all other laws, rules, and policies. These include but are not limited to the following:

- Provider application agreement;
- *Medical Aid Rules and Fee Schedules* (MARFS);
- Payment policies;
- *Medical Examiners' Handbook*.

(~~(iii) Providers must))~~ (g) Review and sign the IME report and attest to its accuracy.

(~~(iv) Providers must achieve a passing score on the *Medical Examiners' Handbook* test prior to initial application and every three years thereafter.~~

(v) Providers must meet one of the following two criteria:

(A) Providers must document a minimum of three hundred eighty-four hours of patient related services (excluding independent medical examinations) per calendar year; or

(B) Providers may complete a minimum of twelve continuing medical education (CME) units of department approved education and training per year or a total of thirty-six CMEs in three years. This training would focus on improving the provider's skills in completing IMEs or staying current in the provider's specialty. Topics include but are not limited to:

- Report writing;
- Providing testimony;
- Standards of practice;
- Medical ethics;
- Patient care;
- Impairment rating.

(~~(vi) Providers must))~~ (h) Conduct examinations in a facility designed as a professional office suitable for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the site is for medical services. The site must not be residential, commercial, educational or retail in nature. The site must be clean, sanitary and provide adequate access, climate control, light, space, and equipment. The site must provide for the comfort and safety of the worker and for the privacy necessary to conduct examinations and discuss medical issues. Providers must have a private disrobing area and adequate provision of examination gowns.

(~~(vii) Providers must))~~ (i) Have telephone answering capability during regular business hours, Monday through Friday, in order to facilitate scheduling of independent examinations and means for workers to contact the provider regarding their scheduled examination. If the office is open on Saturday, telephone access must be available.

(~~(viii) Providers will))~~ (j) Agree that either they or the department may inactivate their IME provider number or numbers. If an IME provider number has been inactivated and the (~~(provider)~~) examiner wishes to resume performing IMEs, they must reapply and meet current requirements.

(~~(ix) Providers must))~~ (k) Agree to keep the department informed and updated with any new information regarding changes or actions that may affect their status as an IME examiner.

(~~(x) In order to maintain an active IME provider number, providers must))~~ (l) Reapply every three years in order to maintain an active IME provider number. (~~(For the current IME providers to be in compliance with the new rule, they must reapply in the first year. Each provider will be notified by mail sixty days prior to their application due date.)~~)

(i) In the first year of the new rule, effective March 1, 2010, all examiners must reapply.

(ii) Examiners will be notified by mail sixty days prior to their renewal application due date.

(m) Achieve a passing score on the *Medical Examiners' Handbook* test prior to initial application and every three years thereafter.

(2) ~~((Additional examiner))~~ Requirements for specific examiner specialties:

(a) Medical physician and surgeon (MD) or osteopathic physician and surgeon (DO) applicants must: Hold a current board certification in their specialty; or have completed a residency and ~~((be))~~ become board certified within five years of ~~((obtaining board certification))~~ completing the residency.

(i) Residency must be in a program approved by the American College of Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) or equivalent approving body.

(ii) Fellowships will not be accepted in lieu of accredited residency training though they may be used to determine examination specialty qualifications.

(b) Podiatric physician (DPM) applicants must: Have a current board certification in their specialty or have completed a residency and become board certified within five years of completing the residency.

(i) Complete a residency program approved by the American Podiatric Medical Association (APMA).

(ii) Fellowships will not be accepted in lieu of accredited residency training though they may be used to determine examination specialty qualifications.

(c) Chiropractic physician (DC) applicants must be a chiropractic consultant for the department for at least two years and attend the department's chiropractic IME seminar in the twenty-four months before initial application.

~~((e))~~ Podiatric physician (DPM) applicants must: Have a current board certification in his or her specialty; or have completed a residency and be within five years of obtaining board certification.

(i) Complete a residency program approved by the American Podiatric Medical Association (APMA).

(ii) Fellowships will not be accepted in lieu of accredited residency training though they may be used to determine examination specialty qualifications.

(d) Dentist (doctor of dental science/doctor of dental medicine) (DDS/DMD) applicants must have at least two years of clinical experience after licensure, and:

(i) Hold current certification in their specialty; or

(ii) Have ~~((two))~~ one year~~((s))~~ of ~~((postdoctoral clinical experience, and complete at least one year of))~~ postdoctoral training in a program approved by the American Dental Association Commission on Dental Accreditation (CODA); or

(iii) Be a general dentist.

(3) All examiners must meet one of the following two criteria:

(a) Document a minimum of three hundred eighty-four hours of patient related services (excluding independent medical examinations) per calendar year; or

(b) Complete a minimum of twelve continuing medical education (CME) units of department-approved education and training per year or a total of thirty-six CMEs in three years. This training would focus on improving the provider's skills in completing IMEs or staying current in the provider's specialty. Topics include, but are not limited to:

- Report writing;
- Providing testimony;
- Standards of practice;
- Medical ethics;
- Patient care;
- Impairment rating.

Only ~~((providers))~~ examiners in the following practice specialties who meet all other requirements may perform IMEs:

Examiner is:	Doctors licensed to practice:				
	Medicine & surgery	Osteopathic medicine & surgery	Podiatric medicine & surgery	Chiropractic	Dentistry
In Washington	Yes	Yes	Yes	Yes	Yes
Outside Washington	Yes	Yes	Yes	No	Yes

~~((3))~~ All other provider applicants) (4) IME firms (partnerships, corporations or other legal entities) that derive income from independent medical examinations must:

(a) Have a medical director. The medical director must be a licensed medical physician and surgeon (MD) or an osteopathic physician and surgeon (DO), be responsible to provide oversight on the quality of independent medical examinations, impairment ratings and reports, and be available to resolve any issue that department staff may bring to the medical director's attention.

(b) Have no previous business or audit action by the department to suspend or revoke an assigned provider number.

(c) Have no previous action taken by any federal or state agency for any business previously owned or operated.

(d) Facilitate scheduling of providers both for the examination and for any required follow up, including amendments to the report, subsequent reports, or for any testimony

required. If the provider fails to participate in scheduling or otherwise causes an undue expense to the department, whether intentionally or not, the department may fine the provider up to five hundred dollars per violation.

(e) Attest that all information submitted on the application is true and accurate and must sign under penalty of perjury.

(f) Comply with all federal ~~((and))~~, state, and local laws, regulations, and other requirements with regard to business operations including specific requirements for any business operations for the provision of medical services.

~~((b))~~ Attest that all information submitted on the application is true and accurate and must sign under penalty of perjury.

(e) Have no previous action taken by any federal or state agency for any business previously owned or operated.

(d) Have no previous business or audit action by the department to suspend or revoke an assigned provider number.

(e) In order to be assigned an IME provider number, an IME firm, partnership, corporation or other legal entity, have a medical director. The medical director must be a licensed provider, be responsible to provide oversight on the quality of independent medical examinations, impairment ratings and reports, and be available to resolve any issue that department staff may bring to the medical director's attention.

(f) Conduct)) (g) Adhere to the independent medical examination standards of conduct, and all other laws, rules, and policies. These include, but are not limited to, the following:

- Provider application agreement;
- Medical Aid Rules and Fee Schedules (MARFS);
- Payment policies;
- Medical Examiners' Handbook.

(h) Ensure that examinations are conducted in a facility designed as a professional office suitable for medical, dental, podiatric, chiropractic or psychiatric examinations where the primary use of the site is for medical services. The site must not be residential, commercial, educational or retail in nature. The site must be clean, sanitary and provide adequate access, climate control, light, space, and equipment. The site must provide for the comfort and safety of the worker and for the privacy necessary to conduct examinations and discuss medical issues. Providers must have a private disrobing area and adequate provision of examination gowns.

((g)) (i) Have telephone answering capability during regular business hours, Monday through Friday, in order to schedule independent medical examinations and communicate with workers about scheduled examinations. If ((the office)) an exam site is open on Saturday, telephone access must be available.

((h)) ~~Facilitate scheduling of providers both for the examination and for any required follow up, including amendments to the report, subsequent reports, or for any testimony required. If the provider fails to participate in scheduling or otherwise causes an undue expense to the department, whether intentionally or not, the department may fine the provider up to five hundred dollars per violation.~~

(i) ~~Agree to keep the department informed and updated with any new information such as exam site or administrative office locations, phone numbers or contact information.~~

(j) Agree that either the ((provider)) firm or the department may inactivate their IME provider number or numbers. If an IME provider number has been inactivated and the ((provider)) firm wishes to resume ((performing IMEs)) related services, they must reapply and meet current requirements.

(k) ((In order to maintain an active IME provider number, the provider must)) Agree to keep the department informed and updated with any new information such as exam site or administrative office locations, phone numbers or contact information.

(l) Reapply every three years in order to maintain an active IME provider number.

(i) In the first year of the new rule, effective March 1, 2010, all IME firms must reapply.

(ii) Firms will be notified by mail sixty days prior to their renewal application due date.

(m) Have a representative from their quality assurance (QA) staff achieve a passing score on the Medical Examiners' Handbook test prior to initial application and every three years thereafter.

AMENDATORY SECTION (Amending WSR 09-24-085, filed 11/30/09, effective 3/1/10)

WAC 296-23-337 For what reasons shall the department's medical director or designee suspend or terminate approval of an independent medical examination (IME) examiner or firm? ((In order)) To ensure high quality independent medical examinations (IMEs), the department's medical director or designee ((shall)) may, in the situations described below, terminate, suspend, or inactivate approval of examiners((;)) or firms((;)) (partnerships, corporations, or other legal entities ((in the situations described below. When an IME examiner or other entity is terminated or suspended, they may not perform IMEs for the department))) that derive income from IMEs. IME providers must have an active provider account number to perform IMEs or provide IME related services.

FOR EXAMINERS:

(1) **AUTOMATIC TERMINATION ((OF EXAMINERS))**. The department's medical director or designee ((shall)) may terminate approval of examiners in situations including, but not limited to, the following:

(a) Their license has been revoked in any jurisdiction.

(b) A final order or stipulation to informal disposition has been issued against the examiner by a state authority in any jurisdiction((;)) including, but not limited to, the Washington state department of health, when such charges involve conduct or behavior as defined in chapter 18.130 RCW, Uniform Disciplinary Act. These include, but are not limited to:

(i) Sexually inappropriate conduct, behavior or language.

(ii) Behavior that puts ((patients')) a patient's safety or well-being at risk.

(c) The examiner has committed perjury or falsified documents provided to the department or insurer.

(d) The examiner has a criminal felony history in any jurisdiction.

(e) The examiner has failed to reapply every three years.

(2) **AUTOMATIC SUSPENSION ((FOR REVIEW))**. The department's medical director or designee ((shall)) may suspend approval of examiners in situations including, but not limited to, the following listed below. The department will initiate ((the)) a review within ninety days of notification. The results of the review will determine if further action is necessary, which may include termination of approval status.

(a) The examiner has failed to meet ((all qualifications)) or maintain the requirements for approval as an IME ((provider)) examiner.

(b) The examiner's license has been restricted in any jurisdiction. Exceptions may be granted for any restriction or offense deemed by the department to be of a minor or clerical nature.

(c) The examiner has lost hospital privileges for cause.

(d) A statement of charges has been filed against the examiner by a state authority in any jurisdiction, including, but not limited to the Washington state department of health, when such charges involve conduct or behavior as defined in chapter 18.130 RCW, Uniform Disciplinary Act. These include, but are not limited to:

(i) Sexually inappropriate conduct, behavior or language.

(ii) Behavior that puts ~~((patients'))~~ a patient's safety or well-being at risk.

(e) The examiner has any pending or history of criminal charges or violation of statutes or rules by any administrative agency, court or board in any jurisdiction.

(3) **OTHER EXAMINER ACTIONS.** In addition to automatic terminations and suspensions described in subsections (1) and (2) of this section, the department's medical director or designee may consider any of the following factors in determining a change in status for examiners. These status changes include temporarily unavailable, suspension or termination of the approval to conduct IMEs.

These factors include, but are not limited to:

(a) Substandard quality of reports, failure to comply with current department policy on report contents, or inability to effectively convey and substantiate medical opinions and conclusions concerning workers.

(b) Unavailable or unwilling to testify on behalf of the department, worker, or employer.

(c) Failure to cooperate with attorneys representing a party in industrial insurance litigation at the board of industrial insurance appeals (board) by not cooperating in a timely manner to schedule preparatory activities and/or testimony during business hours and within the dates ordered by the board to complete testimony.

(d) Inability to support examination and report findings in any legal proceeding as evidenced by board decisions finding the testimony less credible.

(e) Failure to stay current in the area of specialty and in the areas of impairment rating, performance of IMEs, industrial injury and occupational disease/illness, industrial insurance statutes, regulations and policies.

(f) Substantiated complaints or pattern of complaints about the provider.

(g) Other disciplinary proceedings or actions not listed in subsections (1) and (2) of this section.

(h) Other proceedings in any court dealing with the provider's professional conduct, quality of care or criminal actions not listed in subsections (1) and (2) of this section.

(i) Untimely reports.

(j) Unavailable or unwilling to communicate with the department in a timely manner.

(k) Misrepresentation of information provided to the department.

(l) Failure to inform the department of changes or actions that may affect the approval status as an IME examiner.

(m) Failure to comply with the department's orders, statutes, rules, or policies.

(n) Failure to accept the department fee schedule rate for independent medical examinations, testimony, or other IME related services.

(o) Any pending action in any jurisdiction.

FOR FIRMS:

~~((4))~~ **(4) AUTOMATIC TERMINATION ((OF NONEXAMINER IME PROVIDERS)).** The department's medical director or designee ~~((shall))~~ may terminate approval of firms ~~((, partnerships, corporations, or other legal entities that derive income from independent medical examinations in situations when they fail to meet all requirements for approval as an IME provider, including failing))~~ when they fail to reapply every three years.

~~((4))~~ **(5) AUTOMATIC SUSPENSION ((OF NONEXAMINER IME PROVIDERS)).** The department's medical director or designee ~~((shall))~~ may suspend approval of firms ~~((, partnerships, corporations, or other legal entities that derive income from independent medical examinations))~~ in situations including, but not limited to, those listed below. The department will review the matter to determine if further action is necessary, which may include termination of approval status.

(a) The ~~((provider has failed to))~~ firm no longer meets ~~((all qualifications))~~ requirements for approval as an IME provider.

(b) The ~~((provider))~~ firm's representative has committed perjury or falsified documents provided to the department or insurer.

(c) ~~((The provider's))~~ A firm representative's behavior has placed ~~((patients'))~~ a patient's safety or well-being at risk.

~~((5))~~ ~~NONAUTOMATIC TERMINATIONS AND SUSPENSIONS.)~~ **(6) OTHER FIRM ACTIONS.** In addition to automatic terminations and suspensions described in subsections ~~((1 through))~~ (4) and (5) of this section, the department's medical director or designee ~~((shall))~~ may consider any of the following factors in determining a change in status for ~~((all providers))~~ firms. These status changes include temporarily unavailable, suspension or termination of the approval to ~~((conduct))~~ provide IME(s) related services.

These factors include, but are not limited to:

(a) Substantiated complaints or pattern of complaints about the ((provider)) firm.

(b) Other disciplinary proceedings or actions not listed in subsections ((1 through)) (4) and (5) of this section.

(c) Other proceedings in any court dealing with the provider's professional conduct, quality of care or criminal actions not listed in subsections ((1 through)) (4) and (5) of this section.

~~((d))~~ (Substandard quality of reports, failure to comply with current department policy on report contents, or inability to effectively convey and substantiate medical opinions and conclusions concerning workers.

~~((e))~~ Untimely reports.

~~((f))~~ (e) Unavailable or unwilling to ((responsibly)) communicate with the department in a timely manner.

~~((g))~~ Unavailable or unwilling to testify on behalf of the department, worker, or employer.

~~((h))~~ Failure to cooperate with all attorneys representing a party in industrial insurance litigation at the board of industrial insurance appeals (board) by not cooperating in a timely manner to schedule preparatory activities and/or testimony during business hours and within the dates ordered by the board to complete testimony.

~~(i) Inability to support examination and report findings in any legal proceeding as evidenced by board decisions finding the testimony less credible.~~

~~(j) Failure to stay current in the area of specialty and in the areas of impairment rating, performance of IMEs, industrial injury and occupational disease/illness, industrial insurance statutes, regulations and policies.~~

~~(k) Failure to maintain the criteria to be an IME provider.~~

~~(H)) (f) Misrepresentation of information provided to the department.~~

~~((m)) (g) Failure to inform the department of changes affecting the ((provider's) firm's status as an IME provider.~~

~~((n)) (h) Failure to comply with the department's orders, statutes, rules, or policies.~~

~~((o)) (i) Failure to accept the department fee schedule rate for independent medical examinations and services.~~

~~((p)) (j) Any pending action in any jurisdiction.~~

WSR 10-18-080
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 31, 2010, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-14-104.

Title of Rule and Other Identifying Information: Chapter 296-52 WAC, Safety standards for possession, handling, and use of explosives.

Hearing Location(s): Department of Labor and Industries Building, Room S117, 7273 Linderson Way S.W., Tumwater, WA, on October 18, 2010, at 10 a.m.

Date of Intended Adoption: November 30, 2010.

Submit Written Comments to: Devin Proctor, Project Manager, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98507-4620, e-mail prof235@lni.wa.gov, fax (360) 902-5529, by October 18, 2010.

Assistance for Persons with Disabilities: Contact Beverly Clark by October 4, 2010, TTY (360) 902-5516 or clah235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is adding language to require those who store explosives to notify their local fire safety authority every year. Currently, notification is required on the first day that the explosive materials are stored. Notification to the local fire safety authority is not required until the explosives are moved. This rule making would make notification an annual event. Prior to this change, explosives could be left in one location for years and only one notification to local fire safety authorities was required.

Language will be added to chapter 296-52 WAC that requires those who store explosives to notify their local fire authority every year.

Amending WAC 296-52-69040, added the requirement to notify your local fire safety authority "In writing when an explosive storage license is renewed."

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 70.74.020.

Statute Being Implemented: Chapters 49.17 and 70.74 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, (360) 902-4805.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

ECONOMIC ANALYSES REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT: This cost-benefit analysis, prepared in compliance with the Administrative Procedure Act (APA), chapter 34.05 RCW, covers the assumed benefits and costs of the proposed rule changes set forth under chapter 296-52 WAC.

DESCRIPTION OF THE PROPOSED RULE CHANGE: This rule making updates the requirement of annual notification for explosives storage. Under the proposed rule, any person who stores explosives is required to notify the local fire safety authority in writing, when an explosive storage license is renewed.

PROBABLE COSTS OF THE PROPOSED RULE CHANGE: There is only one change being proposed in this rule making: The rule requires any person who stores explosives notify the local fire safety authority in writing each year at the time of license renewal. To meet this requirement, these persons only need to make a copy of the written material they already have and send it to the authority, by mail or fax. Besides, this document is supposed to be very short, one page in most cases, as it is required to contain three pieces of basic information only. Therefore, the total annual costs relating to the printing and sending of this document are expected to be very minimal and negligible.

PROBABLE BENEFITS OF THE PROPOSED RULE CHANGE: The purpose of this rule change is to help fire safety authority keep good track of the explosives storage and raise the awareness of securing explosives. This annual notification is necessary to prevent or reduce the possibility of any potential explosives accidents that will pose great danger to public safety.

COST-BENEFIT DETERMINATION: The proposed rule change imposes very minimal costs on the persons it affects. At the same time, the new requirement helps promote public safety relating to explosives storage. For these reasons, the probable benefits of this rule change exceed the very minimal costs.

A copy of the statement may be obtained by contacting Devin Proctor, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5541, fax (360) 902-5619, e-mail prof235@lni.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs to assess within these rule amendments.

August 31, 2010
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69040 Notification of fire safety authority. Any person who stores explosive material must notify the local fire safety authority, who has jurisdiction over the area where the explosive material is stored.

(1) The local fire safety authority must be notified:

- Orally, on the first day explosive materials are stored
- In writing, within forty-eight hours, from the time the explosive material was stored
- In writing when an explosive storage license is renewed.

(2) The notification must include the following for each site where explosive material is stored:

- Type of explosives
- Magazine capacity
- Location.

**WSR 10-18-083
PROPOSED RULES
OFFICE OF**

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2010-06—Filed August 31, 2010, 3:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-14-097.

Title of Rule and Other Identifying Information: Insurers use of legal name when transacting insurance.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on October 5, 2010, at 9:00 a.m.

Date of Intended Adoption: October 6, 2010.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail kacys@oic.wa.gov, fax (360) 586-3109, by October 4, 2010.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by October 4, 2010, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule is to modify a recently adopted rule to ensure that insurers and the entities they contract with use their "legal name" when conducting insurance so that consumers and the office [of] the insurance commissioner will be able to identify which insurer is involved in any insurance transaction while not creating an operational burden for insurers.

Reasons Supporting Proposal: A draft was sent to insurers with comments solicited to ensure that the amended rule provides necessary consumer protection, supports the commissioner's market conduct oversight, and minimizes the operation burden on insurers.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.05.190.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7041; Implementation and Enforcement: Carol Sureau, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule modifies a recently adopted rule on legal name to more tightly define the instances in which a legal name is required to be used by an insurer. The end result is a reduction of the regulatory burden on insurers and those they contract with as "contracted entities," which is projected to result in a reduction of associated costs. Because no additional restrictions or costs are imposed no small business economic impact statement is required.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

August 31, 2010
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2008-11, filed 6/2/10, effective 7/3/10)

WAC 284-30-670 Insurers must transact business in their legal name. (1) The commissioner is adopting this regulation as an unfair practice for the following reasons:

(a) Many insurers fail or periodically fail to comply with the legal name requirement of RCW 48.05.190(1) when transacting insurance business.

(b) When a consumer seeks assistance from the commissioner, the legal name of the company must be determined. When the consumer is unable to provide the information, the commissioner's staff must research it, which unnecessarily wastes the commissioner's resources and delays the inquiry and resolution, posing a risk of harm to the consumer.

(c) ~~((Insurers will not accept a lawsuit from their insured))~~ ~~If ((the)) lawsuit~~ paperwork does not identify the insurer correctly the lawsuit may be dismissed.

(2) The following definition ~~((s apply))~~ applies to this section:

~~((a))~~ "Legal name" of the insurer means the name displayed on the Washington state certificate of authority issued by the commissioner.

~~((b)) "Contracted entity" means an entity with which an insurer contracts to transact any aspect of the business of insurance, such as adjudicating claims, determining eligibil-~~

ity, or underwriting or marketing products on behalf of an insurer, and includes such entities as insurance producers, claims administrators, and managing general agents as defined in RCW 48.98.005(3).

(e) "Transacting business" includes insurance transaction, as defined in RCW 48.01.060.

(3) An insurer must identify itself by its legal name when:

(a) Transacting business with a consumer, insured, potential insured or claimant as defined in WAC 284-30-320(2); and

(b) Communicating orally, electronically, or in writing with the commissioner regarding an investigation, inquiry, enforcement matter or examination.)) (3) Insurers must take steps reasonably calculated to ensure that consumers are aware of the legal name of the insurance company with which they hold a policy or contract or are doing business. While not every written document must include the legal name to satisfy this requirement, documents used to accomplish an insurance transaction must include the legal name of the insurer.

(a) When a policy or contract is issued and at renewal, insurers must provide the legal name of the insuring company to the insured on the declarations page or other required policy or contract summary.

(b) The insurer must provide its legal name in the course of an insurance transaction, specifically including:

(i) When an insurer communicates on behalf of the insured with persons other than the insured;

(ii) All written communications concerning matters such as claims, underwriting, marketing or policyholder services.

(c) At some point before the policy or contract is issued, the insurer or their producer must inform the consumer of the legal name of the company that will issue the policy or contract.

(d) If the commissioner receives a complaint in whole or in part that involves an insurer not using its legal name when transacting insurance, the insurer must demonstrate to the commissioner's satisfaction that reasonable efforts were made to inform the complainant of its legal name.

(4) To assist the commissioner in identifying the legal name of the insurer, insurers' written communications ((with)) to the commissioner in response to any investigation, inquiry, enforcement matter or examination must ((also)) include the insurer's NAIC code.

((4) Advertisements directed to insureds or potential insureds must clearly display the insurer's legal name and the location of its home office or principal office, as required by RCW 48.30.050.

(a) An advertisement by an insurance producer, licensee, or other marketing entity advertising an insurance product common to multiple insurers does not need to include the legal name of the insurer. The advertisement must include the insurance producer, licensee, or other marketing entity's name and address.

(b) Advertisements directed solely to insurance producers, providers, or other marketing entities, but not directed to insureds or potential insureds, are exempt from this subsection.))

(5) ((Each single)) Violation of this section by an insurer or its contracted entity may subject the insurer to all applicable provisions of Title 48 RCW ((, including, but not limited to, RCW 48.05.140 and 48.05.185)).

(6) This regulation does not bar the use of trade names, group names, logos or trademarks. ((To be in compliance with RCW 48.05.190(1), when an insurer uses a trade name, group name, logo or trademark when conducting its business, the insurer must also identify itself by its legal name as required by this section.))

WSR 10-18-090

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed September 1, 2010, 8:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-13-024.

Title of Rule and Other Identifying Information: Chapter 4-25 WAC. See Reviser's note below.

Hearing Location(s): Washington State Criminal Justice Training Commission, Classroom C-220, 19010 First Avenue South, Burien, WA 98148, on October 29, 2010, at 9:00 a.m.

Date of Intended Adoption: October 29, 2010.

Submit Written Comments to: Cheryl M. Sexton, Rules Coordinaotr [Coordinator], P.O. Box 9131, Olympia, WA 98507-9131, e-mail cheryls@cpaboard.wa.gov, fax (360) 664-9190, by October 19, 2010.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by October 22, 2010, TTY (800) 833-6384 or (360) 664-9194.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Comprehensive review of all of the board's rules to:

- Recognize on-line services' impact on procedures.
- Use consistent language throughout the rules.
- Reorganize the rules resulting in renumbering and grouping into like functions.
- Incorporate board policy into rule.
- Adds new rules to accommodate changes in environment.

Reasons Supporting Proposal: In January 2010, the board of accountancy offered certificate/license renewal on-line for the first time. The board needs to adopt, amend, decodify, and repeal rules to recognize the impact of on-line services on procedures.

See Reviser's note below.

The board's goal with all of its rule proposals is to:

- Promote clarity.
- Ensure effective communication.
- Ensure fairness in interpretation and application of the rules.
- Promote efficiencies through minimizing gray areas.

Statutory Authority for Adoption: See Reviser's note below.

Statute Being Implemented: See Reviser's note below.

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

Name of Proponent: Primarily the Washington state board [board] of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Richard C. Sweeney, CPA, Olympia, Washington, (360) 586-0163.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule(s) will not have more than minor economic impact on business.

A cost-benefit analysis is not required under RCW 34.05.328. The board of accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.-328.

September 1, 2010
Richard C. Sweeney, CPA
Executive 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 10-19 issue of the Register.

WSR 10-18-091
PROPOSED RULES
HORSE RACING COMMISSION
[Filed September 1, 2010, 8:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-12-086.

Title of Rule and Other Identifying Information: WAC 260-36-085 License and fingerprint fees.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on October 14, 2010, at 9:30 a.m.

Date of Intended Adoption: October 14, 2010.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail dmoore@whrc.state.wa.us, fax (360) 459-6461, by October 11, 2010.

Assistance for Persons with Disabilities: Contact Patty Sorby by October 11, 2010, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Raises the licensing fees approximately five percent to cover the cost of the licensing program as allowed in RCW 67.16.020(1).

Reasons Supporting Proposal: A cost increase is necessary to cover the increase in costs of the licensing program.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

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

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

September 1, 2010

Douglas L. Moore

Deputy Secretary

AMENDATORY SECTION (Amending WSR 09-21-014, filed 10/9/09, effective 11/9/09)

WAC 260-36-085 License and fingerprint fees. The following are the license fees for any person actively participating in racing activities:

Apprentice jockey	\$((80.00)) <u>84.00</u>
Assistant trainer	\$((38.00)) <u>40.00</u>
Association employee—management	\$((26.00)) <u>27.00</u>
Association employee—hourly/seasonal	\$((16.00)) <u>17.00</u>
Association volunteer nonpaid	No fee
Authorized agent	\$((26.00)) <u>27.00</u>
Clocker	\$((26.00)) <u>27.00</u>
Exercise rider	\$((80.00)) <u>84.00</u>
Groom	\$((26.00)) <u>27.00</u>
Honorary licensee	\$((16.00)) <u>17.00</u>
Jockey agent	\$((80.00)) <u>84.00</u>
Jockey	\$((80.00)) <u>84.00</u>
Other	\$((26.00)) <u>27.00</u>
Owner	\$((80.00)) <u>84.00</u>
Pony rider	\$((80.00)) <u>84.00</u>
Service employee	\$((26.00)) <u>27.00</u>
Spouse groom	\$((26.00)) <u>27.00</u>
Stable license	\$((49.00)) <u>51.00</u>
Trainer	\$((80.00)) <u>84.00</u>
Vendor	\$((122.00)) <u>128.00</u>

Veterinarian ~~\$(122.00)~~
128.00

The license fee for multiple licenses may not exceed ~~\$(122.00)~~ 128.00, except persons applying for owner, veterinarian or vendor license must pay the license fee established for each of these licenses.

The following are examples of how this section applies:

Example one - A person applies for the following licenses: Trainer (~~\$(80.00)~~ 84.00), exercise rider (~~\$(80.00)~~ 84.00), and pony rider (~~\$(80.00)~~ 84.00). The total license fee for these multiple licenses would only be ~~\$(122.00)~~ 128.00.

Example two - A person applies for the following licenses: Owner (~~\$(80.00)~~ 84.00), trainer (~~\$(80.00)~~ 84.00) and exercise rider (~~\$(80.00)~~ 84.00). The total cost of the trainer and exercise rider license would be ~~\$(122.00)~~ 128.00. The cost of the owner license (~~\$(80.00)~~ 84.00) would be added to the maximum cost of multiple licenses (~~\$(122.00)~~ 128.00) for a total license fee of ~~\$(202.00)~~ 212.00.

Example three - A person applies for the following licenses: Owner (~~\$(80.00)~~ 84.00), vendor (~~\$(122.00)~~ 128.00), and exercise rider (~~\$(80.00)~~ 84.00). The license fees for owner (~~\$(80.00)~~ 84.00) and vendor (~~\$(122.00)~~ 128.00) are both added to the license fee for exercise rider (~~\$(80.00)~~ 84.00) for a total license fee of ~~\$(282.00)~~ 296.00.

In addition to the above fees, except for association volunteers (nonpaid) at Class C race meets, a \$10.00 fee will be added to cover the costs of conducting a fingerprint-based background check. The background check fee will be assessed only once annually per person regardless of whether the person applies for more than one type of license in that year.

The commission will review license and fingerprint fees annually to determine if they need to be adjusted to comply with RCW 67.16.020.

WSR 10-18-092
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket UE-100865—Filed September 1, 2010, 8:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-161.

Title of Rule and Other Identifying Information: WAC 480-100-405, 480-100-415, 480-100-425 and 480-100-435, regarding greenhouse gas emissions.

Hearing Location(s): Richard Hemstad Building, Commission Hearing Room 206, Second Floor, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on October 27, 2010, at 1:30 p.m.

Date of Intended Adoption: October 27, 2010.

Submit Written Comments to: Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, e-

mail records@utc.wa.gov, fax (360) 586-1150, by October 4, 2010.

Assistance for Persons with Disabilities: Contact Susan Holman by October 13, 2010, TTY (360) 586-8203 or (360) 664-1243.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules would implement statutory changes in RCW 80.80.010, 80.80.040 and 80.80.060 enacted in the state of Washington's 2009 regular legislative session. On April 20, 2009, and May 11, 2009, respectively, the governor signed SB 5989, chapter 147, Laws of 2009, and HB 2129, chapter 448, Laws of 2009, with the common title "greenhouse gas emissions performance standard."

The proposed rules revise standards and/or procedures under which electric utilities, either inside or outside of a general rate case, will seek a determination by the Washington utilities and transportation commission that their long-term financial commitments comply with the greenhouse gas emissions performance standards found in RCW 80.80.005, *et seq.* The proposed rules also revise standards and/or procedures under which electric utilities that do not meet the greenhouse gas emissions performance standards may request exemption from the standards from the commission. Finally, the proposed rules include certain renewable resources, the cost for which electric utilities are allowed to defer for later commission consideration.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, and 80.80.060(8).

Statute Being Implemented: Not applicable.

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

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

Name of Agency Personnel Responsible for Drafting: Danny Kermode, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1253; Implementation and Enforcement: David W. Danner, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1208.

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

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

September 1, 2010

David W. Danner

Executive Director
and Secretary

AMENDATORY SECTION (Amending Docket UE-080111, General Order R-553, filed 11/14/08, effective 12/15/08)

WAC 480-100-405 Electrical company generation resource compliance with the greenhouse ((gases)) gas emissions performance standard. (1) No electrical company may enter into a long-term financial commitment after June 30, 2008, for the supply of baseload generation unless such generation complies with the greenhouse ((gases)) gas emissions performance standard. Electrical companies bear the burden to prove compliance with the greenhouse ((gases)) gas emissions performance standard under the requirements of WAC 480-100-415 or as part of a general rate case. For electrical companies that fail to carry their burden of proof, the commission may disallow recovery of some or all costs in rates, impose penalties, or take such other action as is consistent with law. Electrical companies seeking to prove compliance with the greenhouse ((gases)) gas emissions standard as part of a general rate case must submit all of the information specified in WAC 480-100-415. This chapter does not apply to any long-term financial commitment with the Bonneville power administration.

(2) The following definitions apply for purposes of this section, WAC 480-100-415, 480-100-425, and 480-100-435:

(a) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(b) "Electricity from unspecified sources" means electricity that is to be delivered in Washington pursuant to a long-term financial commitment entered into by an electrical company and whose sources or origins of generation and expected average annual deliveries cannot be ascertained with reasonable certainty.

(c) "Greenhouse ((gases)) gas emissions performance standard" means the standard established in RCW 80.80.040, WAC 173-407-120 and 173-407-130, and the verification and measurement procedures contained in WAC 173-407-140, 173-407-230, and 173-407-300.

(d) "Long-term financial commitment" means either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or a new or renewed contract for baseload electric generation with a term of five or more years for provision of retail power or wholesale power to end-use customers in this state.

(e) "New ownership interest" means a change in the ownership structure of a baseload power plant or a cogeneration facility or the electrical generation portion of a cogeneration facility affecting at least:

(i) Five percent of the market value of the power plant or cogeneration facility; or

(ii) Five percent of the electrical output of the power plant or cogeneration facility.

The above thresholds apply to each unit within a multi-unit generation facility. A direct or indirect change in ownership of an electrical company does not constitute a new ownership interest in baseload electric generation.

(f) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt hours, to the electricity the unit could have produced if it had

been operated at its rated capacity during that period, expressed in kilowatt hours.

(g) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by ~~((the energy facility site evaluation council or a local jurisdiction))~~ a jurisdiction inside or outside the state.

(h) "State" means the state of Washington.

(i) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility or unit. Upgrade does not include:

(i) Routine or necessary maintenance;

(ii) Installation of emission control equipment;

(iii) Installation, replacement, or modification of equipment that improves the heat rate of the facility; or

(iv) Installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

AMENDATORY SECTION (Amending Docket UE-080111, General Order R-553, filed 11/14/08, effective 12/15/08)

WAC 480-100-415 Electrical company applications for commission determination outside of a general rate case of electric generation resource compliance with greenhouse ((gases)) gas emissions performance standard. (1) ~~((An))~~ Any electrical company may apply for a determination by the commission outside of a general rate case of whether an electric generation resource it proposes to acquire as a long-term financial commitment complies with the greenhouse ((gases)) gas emissions performance standard, including whether the resource is baseload electric generation ~~((, whether the company has a need for the resource, and whether the proposed resource is appropriate to meet that need. Such an application must include the following information:~~

~~((a) The electrical company's most recent integrated resource plan filed under WAC 480-100-238 and a description of how the proposed electric generation resource meets the resource need, resource investment strategies and other factors identified in the integrated resource plan)).~~

~~((b))~~ (2) If an electrical company submits an application under this subsection regarding a long-term financial commitment with multiple power plants, each power plant will be considered individually in determining:

(a) Annualized plant capacity factor;

(b) Net emissions;

(c) Compliance with RCW 80.80.040(1) except as provided in RCW 80.80.040 (3) through (5).

(3) Any request under this subsection must include the following information:

(a) If the proposed electric generation resource is a specific power plant located in the state:

(i) The plant technology, design, fuel and fuel consumption;

(ii) Any site certificate or other permits necessary for operation of the power plant, including, ~~((for power plants located in Washington,))~~ any determination made by the department of ecology, local air authority or the energy facility site evaluation council regarding compliance with the greenhouse ~~((gases))~~ gas emissions performance standard;

(iii) Such other information as is available to or in the possession of the electrical company concerning ~~((the))~~ exhaust emissions ~~((characteristics of the))~~ including total annual pounds of greenhouse gas from each power plant ~~((; and~~

~~((iv) The expected cost of the power generation to be acquired from the plant)).~~

(b) If the proposed electric generation resource is a specific power plant located outside the state:

(i) The plant technology, design, fuel and fuel consumption:

(ii) Any site certificate or other permits necessary for operation of the power plant;

(iii) Such other information as is available to or in the possession of the electrical company concerning exhaust emissions characteristics of the plant including total annual pounds of greenhouse gas from each power plant;

(iv) Documentation of emissions verifications and measurement procedures which show consistency with the state's emissions performance standard.

(c) If the proposed electric generation resource is a power purchase contract including contracts for delivery of electricity from unspecified sources:

(i) The proposed contract;

(ii) The technology, location, design, fuel and fuel consumption of any power plant, or plants, identified in the contract as the source of the contracted power deliveries, including such information as is knowable regarding the proportionate share each power source, or type of plant, will contribute to deliveries on an annual basis over the life of the contract;

(iii) Such other information as is available to or in the possession of the electrical company concerning the exhaust emissions characteristics of the plant(s) supporting contracted power deliveries ~~((; and))~~ including total annual pounds of greenhouse gas from each power plant.

(iv) A calculation of the percent of electricity delivered under the power purchase contract from unspecified resources.

~~((iv))~~ (v) The contract term ~~((and expected cost of the power to be acquired through the))~~ of the power purchase agreement.

~~((2))~~ (4) The commission ~~((will))~~ may consider ~~((the))~~ an application filed under this section pursuant to chapter 34.05 RCW (Part IV) following the procedures established in chapter 480-07 WAC ~~((The schedule for a proceeding under this subsection will take into account both:~~

~~((a) The needs of the parties to the proposed resource acquisition or power purchase agreement for timely decisions that allow transactions to be completed; and~~

~~((b) The procedural rights to be provided to parties in chapter 34.05 RCW (Part IV), including intervention, discovery, briefing, and hearing.~~

~~((3) The commission)), but the commission will not decide in ~~((a proceeding))~~ any application under this section, issues involving the actual costs to construct and operate the selected resource, cost recovery, or other issues reserved by the commission for decision in a general rate case or other proceeding authorized by the commission for recovery of the resource or contract costs.~~

AMENDATORY SECTION (Amending Docket UE-080111, General Order R-553, filed 11/14/08, effective 12/15/08)

WAC 480-100-425 Electrical company applications for exemption from the greenhouse gas emissions performance standard. (1) An electrical company may apply to the commission for a case-by-case exemption from the greenhouse ~~((gases))~~ gas emissions performance standard to address:

(a) Unanticipated electric system reliability needs; or

(b) Extraordinary cost impacts on utility ratepayers; or

(c) Catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(2) An electrical company's application under subsection (1)(a) of this section must include:

(a) A description of the electric system reliability needs including an explanation of why these needs were not anticipated, and why they cannot be addressed with other baseload electric generation that complies with the greenhouse ~~((gases))~~ gas performance standard.

(b) The estimated duration of the exemption necessary to address the reliability need.

(c) A description of any long-term financial commitment the company proposes to enter into to address the reliability need including all of the information specified in WAC 480-100-415.

(3) An application under subsection (1)(b) of this section must include:

(a) Identification of the long-term financial commitment that will result in extraordinary costs to ratepayers.

(b) Criteria used by the applicant to judge cost as extraordinary.

(c) A description of the extraordinary cost including:

(i) Total system, jurisdictional and per-customer cost impact.

(ii) Company proposed alternatives, if any, to address the extraordinary costs.

(iii) The estimated duration of the exemption necessary to address the extraordinary cost impact.

(4) An electrical company's application under subsection (1)~~((b))~~ (c) of this section must include:

(a) A description of the catastrophic event or threat of significant financial harm and an explanation of why the circumstances from which the event or harm arose were not foreseen including:

(i) An explanation of why the circumstances cannot be addressed with baseload generation that complies with the greenhouse ~~((gases))~~ gas performance standard;

(ii) What the anticipated negative financial impact would be to the company if such exemption were denied;

(b) The estimated duration of the exemption necessary to address the catastrophic event or threat of significant financial harm.

(c) A description of any long-term financial commitment the company proposes to enter into to address the catastrophic event or threat of significant financial harm including all of the information specified in WAC 480-100-415.

~~((4))~~ (5) An electrical company may propose recovery of costs associated with an application under this rule as part of a general rate case.

AMENDATORY SECTION (Amending Docket UE-080111, General Order R-553, filed 11/14/08, effective 12/15/08)

WAC 480-100-435 Electrical company deferral of costs associated with long-term financial commitments—Notice and reporting. (1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with a long-term financial commitment for:

(a) ~~Baseload electric generation~~~~(, including)~~; or

(b) An eligible renewable resource as defined in RCW 19.285.030 that the electrical company owns or has entered a power purchase agreement for a term of five or more years.

(2) Deferred costs may include operating and maintenance costs, depreciation, taxes, and cost of invested capital.

~~((2))~~ (3) An electrical company deferring costs under subsection (1) of this section must:

(a) Notify the commission within ten business days of its intent to defer such costs; and

(b) File quarterly with the commission a report documenting the balances of costs deferred in a form specified by the commission.

~~((3))~~ (4) The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months; provided that if during such period the company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such proceeding. Creation of such a deferral account does not by itself determine the actual costs of the long-term financial commitment, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding authorized by the commission for recovery of these costs.

WSR 10-18-094

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed September 1, 2010, 8:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-109.

Title of Rule and Other Identifying Information: The department is amending WAC 388-97-4160 Initial nursing home license and 388-97-4180 Nursing home license renewal.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>

or by calling (360) 664-6094, on October 5, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 6, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA, 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 5, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant by September 22, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 6444, section 206, supplemental operating budget (chapter 37, Laws of 2010 1st sp. sess.). Under chapter 37, Laws of 2010, the department must increase the yearly license fee for nursing homes from \$275 per bed to \$327 per bed effective July 1, 2010.

Reasons Supporting Proposal: Chapter 37, Laws of 2010 1st sp. sess.

Statutory Authority for Adoption: Chapter 37, Laws of 2010 1st sp. sess., chapter 74.46 RCW.

Statute Being Implemented: Chapter 37, Laws of 2010 1st sp. sess., chapter 74.46 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Patricia Hague, Mailstop 45600, (360) 725-2447; Implementation and Enforcement: Joyce Stockwell, Mailstop 45600, (360) 725-2401.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 34.05.328, the rules proposed for permanent adoption are significant legislative rules. Under RCW 34.05.328 (5)(b)(vi), the department is exempt from preparing a cost-benefit analysis (CBA). Significant legislative rules that set or adjust fees or rates pursuant to legislative standards do not require a CBA.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 19.85.025(3), the department is not required to complete a small business economic impact statement for rules that set or adjust fees or rates pursuant to legislative standards (RCW 34.05.310 (4)(f)).

August 18, 2010

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-4160 Initial nursing home license. (1) A complete nursing home license application must be:

(a) Submitted at least sixty days prior to the proposed effective date of the license on forms designated by the department;

(b) Signed by the proposed licensee or the proposed licensee's authorized representative;

(c) Notarized; and

(d) Reviewed by the department in accordance with this chapter.

(2) All information requested on the license application must be provided. At minimum, the nursing home license application will require the following information:

(a) The name and address of the proposed licensee, and any partner, officer, director, managerial employee, or owner of five percent or more of the proposed licensee;

(b) The names of the administrator, director of nursing services, and, if applicable, the management company;

(c) The specific location and the mailing address of the facility for which a license is sought;

(d) The number of beds to be licensed; and

(e) The name and address of all nursing homes that the proposed licensee or any partner, officer, director, managerial employee, or owner of five percent or more of the proposed licensee has been affiliated with in the past ten years.

(3) The proposed licensee must be:

(a) The individual or entity responsible for the daily operation of the nursing home;

(b) Denied the license if any individual or entity named in the application is found by the department to be unqualified.

(4) For initial licensure of a new nursing home, the proposed licensee must submit the annual license fee with the initial license application. The nonrefundable nursing home license fee is ~~((two hundred seventy five))~~ three hundred twenty seven dollars per bed per year.

(5) If any information submitted in the initial license application changes before the license is issued, the proposed licensee must submit a revised application containing the changed information.

(6) If a license application is pending for more than six months, the proposed licensee must submit a revised application containing current information about the proposed licensee or any other individuals or entities named in the application.

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-4180 Nursing home license renewal. (1) All nursing home licenses must be renewed annually.

(2) License renewals must be:

(a) Submitted at least thirty days prior to the license's expiration date on forms designated by the department;

(b) Signed by the current licensee; and

(c) Reviewed by the department in accordance with this chapter.

(3) The current licensee must provide all information on the license renewal form or other information requested by the department.

(4) The application for a nursing home license renewal must be made by the individual or entity currently licensed and responsible for the daily operation of the nursing home.

(5) The nursing home license renewal fee must be submitted at the time of renewal. The nonrefundable nursing home license renewal fee is ~~((two hundred seventy five))~~ three hundred twenty seven dollars per bed per year.

(6) In unusual circumstances, the department may issue an interim nursing home license for a period not to exceed three months. The current licensee must submit the prorated nursing home license fee for the period covered by the interim license. The annual date of license renewal does not change when an interim license is issued.

(7) A change of nursing home ownership does not change the date of license renewal and fee payment.

WSR 10-18-095

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed September 1, 2010, 8:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-107.

Title of Rule and Other Identifying Information: The department is amending WAC 388-78A-3230 Fees.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on October 5, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 6, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 5, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by September 22, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 6444, section 206, supplemental operating budget (chapter 37, Laws of 2010 1st sp. sess.). Under chapter 37, Laws of 2010, the department must increase the yearly license fee for licensed boarding homes from \$79 per bed to \$106 per bed effective July 1, 2010.

Reasons Supporting Proposal: Chapter 37, Laws of 2010 1st sp. sess.

Statutory Authority for Adoption: Chapter 37, Laws of 2010 1st sp. sess.

Statute Being Implemented: Chapter 37, Laws of 2010 1st sp. sess.

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

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

Name of Agency Personnel Responsible for Drafting: Patricia Hague, Mailstop 45600, (360) 725-2447; Implementation and Enforcement: Joyce Stockwell, Mailstop 45600, (360) 725-2401.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 34.05.328, the rules proposed for permanent adoption are significant legislative rules. Under RCW 34.05.328 (5)(b)(vi), the department is exempt from preparing a cost-benefit analysis (CBA). Significant legislative rules that set or adjust fees or rates pursuant to legislative standards do not require a CBA.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 19.85.025(3), the department is not required to complete a small business economic impact statement for rules that set or adjust fees or rates pursuant to legislative standards (RCW 34.05.310 (4)(f)).

August 18, 2010
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

WAC 388-78A-3230 Fees. The boarding home must:

(1) Submit an annual license fee of (~~seventy-nine~~) one hundred six dollars per bed of the licensed resident bed capacity as determined by and in accordance with RCW 18.20.050;

(2) Submit an additional one hundred fifty dollars when billed by the department for:

(a) A third on-site visit required by the boarding home's failure to adequately correct problems identified in a statement of deficiencies; and

(b) A full out-of-sequence inspection resulting from information gathered during a complaint investigation.

(3) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark; and

(4) Submit to construction review services a fee for the review of the construction documents per the review fee schedule that is based on the project cost.

WSR 10-18-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed September 1, 2010, 9:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-12-109.

Title of Rule and Other Identifying Information: WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504, (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on October 5, 2010, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 6, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 5, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by September 22, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 6444, section 206, supplemental operating budget (chapter 37, Laws of 2010 1st sp. sess.). Under chapter 37, Laws of 2010, the department increased the yearly license fee for licensed boarding homes from \$79 per bed to \$106 per bed effective July 1, 2010.

Effective July 1, 2010, the department increased the rates in WAC 388-105-0005 to cover the medicaid share of the license fee increase and the medicaid cost of new training needs.

Reasons Supporting Proposal: Chapter 37, Laws of 2010 1st sp. sess.

Statutory Authority for Adoption: Chapter 37, Laws of 2010 1st sp. sess., RCW 74.39A.030(3).

Statute Being Implemented: Chapter 37, Laws of 2010 1st sp. sess., RCW 74.39A.030(3).

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

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

Name of Agency Personnel Responsible for Drafting: Patricia Hague, Mailstop 45600, (360) 725-2447; Implementation and Enforcement: Ken Callaghan, Mailstop 45600, (360) 725-2499.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 34.05.328, the rules proposed for permanent adoption are significant legislative rules. Under RCW 34.05.328 (5)(b)(vi), the department is exempt from preparing a cost-benefit analysis (CBA). Significant legislative rules that set or adjust fees or rates pursuant to legislative standards do not require a CBA.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 19.85.025(3), the department is not

required to complete a small business economic impact statement for rules that set or adjust fees or rates pursuant to legislative standards (RCW 34.05.310 (4)(f)).

August 18, 2010
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-20-011, filed 9/25/09, effective 10/26/09)

WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services. For contracted AFH and boarding homes contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	\$((66.45)) <u>66.65</u>	\$((71.87)) <u>72.07</u>	\$((46.99)) <u>47.19</u>	\$((46.99)) <u>47.19</u>	\$46.39
A Med	\$((71.95)) <u>72.15</u>	\$((77.37)) <u>77.57</u>	\$((53.32)) <u>53.52</u>	\$((53.32)) <u>53.52</u>	\$52.64
A High	\$((80.74)) <u>80.94</u>	\$((86.16)) <u>86.36</u>	\$((58.56)) <u>58.76</u>	\$((58.56)) <u>58.76</u>	\$58.90
B Low	\$((66.45)) <u>66.65</u>	\$((71.87)) <u>72.07</u>	\$((46.99)) <u>47.19</u>	\$((46.99)) <u>47.19</u>	\$46.62
B Med	\$((74.15)) <u>74.35</u>	\$((79.57)) <u>79.77</u>	\$((59.65)) <u>59.85</u>	\$((59.65)) <u>59.85</u>	\$59.19
B Med-High	\$((83.98)) <u>84.18</u>	\$((89.40)) <u>89.60</u>	\$((63.43)) <u>63.63</u>	\$((63.43)) <u>63.63</u>	\$63.42
B High	\$((88.41)) <u>88.61</u>	\$((93.83)) <u>94.03</u>	\$((72.51)) <u>72.71</u>	\$((72.51)) <u>72.71</u>	\$72.51
C Low	\$((71.95)) <u>72.15</u>	\$((77.37)) <u>77.57</u>	\$((53.32)) <u>53.52</u>	\$((53.32)) <u>53.52</u>	\$52.64
C Med	\$((80.74)) <u>80.94</u>	\$((86.16)) <u>86.36</u>	\$((66.93)) <u>67.13</u>	\$((66.93)) <u>67.13</u>	\$67.22
C Med-High	\$((100.51)) <u>100.71</u>	\$((105.93)) <u>106.13</u>	\$((89.22)) <u>89.42</u>	\$((89.22)) <u>89.42</u>	\$88.06
C High	\$((101.51)) <u>101.71</u>	\$((106.93)) <u>107.13</u>	\$((90.07)) <u>90.27</u>	\$((90.07)) <u>90.27</u>	\$89.29
D Low	\$((74.15)) <u>74.35</u>	\$((79.57)) <u>79.77</u>	\$((72.07)) <u>72.27</u>	\$((72.07)) <u>72.27</u>	\$68.52
D Med	\$((82.39)) <u>82.59</u>	\$((87.81)) <u>88.01</u>	\$((83.50)) <u>83.70</u>	\$((83.50)) <u>83.70</u>	\$83.87
D Med-High	\$((106.54)) <u>106.74</u>	\$((111.96)) <u>112.16</u>	\$((106.19)) <u>106.39</u>	\$((106.19)) <u>106.39</u>	\$100.92
D High	\$((114.81)) <u>115.01</u>	\$((120.23)) <u>120.43</u>	\$((114.81)) <u>115.01</u>	\$((114.81)) <u>115.01</u>	\$114.90

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
E Med	\$((138.75)) <u>138.95</u>	\$((144.17)) <u>144.37</u>	\$((138.75)) <u>138.95</u>	\$((138.75)) <u>138.95</u>	\$138.84
E High	\$((162.69)) <u>162.89</u>	\$((168.11)) <u>168.31</u>	\$((162.69)) <u>162.89</u>	\$((162.69)) <u>162.89</u>	\$162.79

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$((60.95)) <u>61.15</u>	\$((65.87)) <u>66.07</u>	\$((46.99)) <u>47.19</u>	\$((46.99)) <u>47.19</u>	\$46.39
A Med	\$((64.26)) <u>64.46</u>	\$((69.18)) <u>69.38</u>	\$((51.21)) <u>51.41</u>	\$((51.21)) <u>51.41</u>	\$50.55
A High	\$((78.54)) <u>78.74</u>	\$((83.46)) <u>83.66</u>	\$((55.84)) <u>56.04</u>	\$((55.84)) <u>56.04</u>	\$55.76
B Low	\$((60.95)) <u>61.15</u>	\$((65.87)) <u>66.07</u>	\$((46.99)) <u>47.19</u>	\$((46.99)) <u>47.19</u>	\$46.62
B Med	\$((69.74)) <u>69.94</u>	\$((74.66)) <u>74.86</u>	\$((56.49)) <u>56.69</u>	\$((56.49)) <u>56.69</u>	\$56.04
B Med-High	\$((79.00)) <u>79.20</u>	\$((83.92)) <u>84.12</u>	\$((60.07)) <u>60.27</u>	\$((60.07)) <u>60.27</u>	\$60.10
B High	\$((86.22)) <u>86.42</u>	\$((91.14)) <u>91.34</u>	\$((70.46)) <u>70.66</u>	\$((70.46)) <u>70.66</u>	\$70.46
C Low	\$((64.26)) <u>64.46</u>	\$((69.18)) <u>69.38</u>	\$((51.42)) <u>51.62</u>	\$((51.42)) <u>51.62</u>	\$50.93
C Med	\$((78.54)) <u>78.74</u>	\$((83.46)) <u>83.66</u>	\$((66.07)) <u>66.27</u>	\$((66.07)) <u>66.27</u>	\$65.58
C Med-High	\$((97.20)) <u>97.40</u>	\$((102.12)) <u>102.32</u>	\$((82.89)) <u>83.09</u>	\$((82.89)) <u>83.09</u>	\$81.82
C High	\$((98.17)) <u>98.37</u>	\$((103.09)) <u>103.29</u>	\$((88.17)) <u>88.37</u>	\$((88.17)) <u>88.37</u>	\$86.81
D Low	\$((69.74)) <u>69.94</u>	\$((74.66)) <u>74.86</u>	\$((71.08)) <u>71.28</u>	\$((71.08)) <u>71.28</u>	\$67.01
D Med	\$((80.14)) <u>80.34</u>	\$((85.06)) <u>85.26</u>	\$((81.83)) <u>82.03</u>	\$((81.83)) <u>82.03</u>	\$81.61
D Med-High	\$((103.04)) <u>103.24</u>	\$((107.96)) <u>108.16</u>	\$((103.56)) <u>103.76</u>	\$((103.56)) <u>103.76</u>	\$97.84
D High	\$((111.65)) <u>111.85</u>	\$((116.57)) <u>116.77</u>	\$((111.65)) <u>111.85</u>	\$((111.65)) <u>111.85</u>	\$111.16
E Med	\$((134.44)) <u>134.64</u>	\$((139.36)) <u>139.56</u>	\$((134.44)) <u>134.64</u>	\$((134.44)) <u>134.64</u>	\$133.95
E High	\$((157.23)) <u>157.43</u>	\$((162.15)) <u>162.35</u>	\$((157.23)) <u>157.43</u>	\$((157.23)) <u>157.43</u>	\$156.74

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low	\$((59.87)) <u>60.07</u>	\$((65.11)) <u>65.31</u>	\$((46.99)) <u>47.19</u>	\$((46.99)) <u>47.19</u>	\$46.39
A Med	\$((64.26)) <u>64.46</u>	\$((69.50)) <u>69.70</u>	\$((50.16)) <u>50.36</u>	\$((50.16)) <u>50.36</u>	\$49.52
A High	\$((78.54)) <u>78.74</u>	\$((83.78)) <u>83.98</u>	\$((54.94)) <u>55.14</u>	\$((54.94)) <u>55.14</u>	\$54.73
B Low	\$((59.87)) <u>60.07</u>	\$((65.11)) <u>65.31</u>	\$((46.99)) <u>47.19</u>	\$((46.99)) <u>47.19</u>	\$46.62
B Med	\$((69.74)) <u>69.94</u>	\$((74.98)) <u>75.18</u>	\$((55.44)) <u>55.64</u>	\$((55.44)) <u>55.64</u>	\$55.00
B Med-High	\$((79.00)) <u>79.20</u>	\$((84.24)) <u>84.44</u>	\$((58.94)) <u>59.14</u>	\$((58.94)) <u>59.14</u>	\$58.92
B High	\$((86.22)) <u>86.42</u>	\$((91.46)) <u>91.66</u>	\$((66.64)) <u>66.84</u>	\$((66.64)) <u>66.84</u>	\$66.64
C Low	\$((64.26)) <u>64.46</u>	\$((69.50)) <u>69.70</u>	\$((50.16)) <u>50.36</u>	\$((50.16)) <u>50.36</u>	\$49.52
C Med	\$((78.54)) <u>78.74</u>	\$((83.78)) <u>83.98</u>	\$((62.45)) <u>62.65</u>	\$((62.45)) <u>62.65</u>	\$63.07
C Med-High	\$((97.20)) <u>97.40</u>	\$((102.44)) <u>102.64</u>	\$((79.72)) <u>79.92</u>	\$((79.72)) <u>79.92</u>	\$78.70
C High	\$((98.17)) <u>98.37</u>	\$((103.41)) <u>103.61</u>	\$((83.34)) <u>83.54</u>	\$((83.34)) <u>83.54</u>	\$82.10
D Low	\$((69.74)) <u>69.94</u>	\$((74.98)) <u>75.18</u>	\$((67.19)) <u>67.39</u>	\$((67.19)) <u>67.39</u>	\$63.37
D Med	\$((80.14)) <u>80.34</u>	\$((85.38)) <u>85.58</u>	\$((77.35)) <u>77.55</u>	\$((77.35)) <u>77.55</u>	\$77.17
D Med-High	\$((103.04)) <u>103.24</u>	\$((108.28)) <u>108.48</u>	\$((97.88)) <u>98.08</u>	\$((97.88)) <u>98.08</u>	\$92.52
D High	\$((105.53)) <u>105.73</u>	\$((110.77)) <u>110.97</u>	\$((105.53)) <u>105.73</u>	\$((105.53)) <u>105.73</u>	\$105.10
E Med	\$((127.07)) <u>127.27</u>	\$((132.31)) <u>132.51</u>	\$((127.07)) <u>127.27</u>	\$((127.07)) <u>127.27</u>	\$126.64
E High	\$((148.61)) <u>148.81</u>	\$((153.85)) <u>154.05</u>	\$((148.61)) <u>148.81</u>	\$((148.61)) <u>148.81</u>	\$148.19

** Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

WSR 10-18-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed September 1, 2010, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-08-079.

Title of Rule and Other Identifying Information: The division of behavioral health and recovery (DBHR) is proposing to create a new chapter 388-816 WAC. The new proposed chapter will include WAC 388-816-0001 What is the purpose of this chapter?, 388-816-0005 What definitions are important throughout this chapter?, 388-816-0010 What problem and pathological gambling programs are certified by the department?, 388-816-0015 How do I apply for certification as a problem and pathological gambling treatment program?, 388-816-0020 How do currently certified or licensed agencies apply for added service?, 388-816-0025 What are the requirements for program facilities?, 388-816-0030 How does the department conduct an examination of facilities?, 388-816-0035 How does the department determine disqualification or denial of an application?, 388-816-0040 What happens after I make application for certification?, 388-816-0045 How do I apply for an exemption?, 388-816-0070 What do I need to do to maintain program certification?, 388-816-0075 What do I need to do for a change in ownership?, 388-816-0080 What do I do to relocate or remodel a facility?, 388-816-0085 How does the department assess penalties?, 388-816-0090 How does the department cancel certification?, 388-816-0095 How does the department suspend or revoke certification?, 388-816-0100 What is the prehearing, hearing, and appeal process?, 388-816-0105 What are the requirements for the governing body of the program?, 388-816-0110 What are the key responsibilities required of a program administrator?, 388-816-0115 What must be included in a program administrative manual?, 388-816-0120 What must be included in a program personnel manual?, 388-816-0125 What are program personnel file requirements?, 388-816-0130 What are the minimum qualifications for clinical staff members providing problem and pathological gambling treatment?, 388-816-0135 What must be included in the program clinical manual?, 388-816-0140 What are clients' rights requirements in certified programs?, 388-816-0145 What are the requirements for problem and pathological gambling assessments?, 388-816-0150 What are the requirements for treatment, continuing care, transfer, and discharge plans?, 388-816-0155 What are the requirements for a client record system?, 388-816-0160 What are the requirements for client record content?, 388-816-0165 What are the requirements for reporting client noncompliance?, 388-816-0170 What are the requirements for outcomes evaluation?, 388-816-0175 What are the requirements for outpatient services?, and 388-816-0180 What are the requirements for providing off-site problem and pathological gambling treatment services?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions>.

html or by calling (360) 664-6094), on October 26, 2010, at 10 a.m.

Date of Intended Adoption: Not earlier than October 27, 2010.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on October 26, 2010.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by October 6, 2010, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department will create a new chapter 388-816 WAC to address agency certification and implementation of the problem and pathological gambling treatment program. Without these rules on July 1, 2010, counselors within DBHR certified agencies would no longer be able to provide problem and pathological treatment services.

Reasons Supporting Proposal: The rules allow a problem and pathological gambling treatment program to hire staff under the department of health agency affiliated credential beginning July 1, 2010. The department of health abolished the registered counselor credential as of June 30, 2010, and will issue seven credentials under chapter 18.19 RCW. Chapter 388-816 WAC will give department of health authority to a grant credential to chemical dependency professionals who practice within an agency by allowing DBHR to certify problem and pathological gambling treatment programs.

RCW 18.19.020 state[s]:

(1) "Agency" means an agency or facility operated, licensed, or certified by the state of Washington.

(2) "Agency affiliated counselor" means a person registered under this chapter who is engaged in counseling and employed by an agency.

Statutory Authority for Adoption: RCW 43.20A.890, 74.08.090.

Statute Being Implemented: RCW 43.20A.890, and chapter 171, Laws of 2010.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: In section 1 (1) and (4), chapter 171, Laws of 2010, the legislature directed that "The department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the program and pathological gambling treatment program."

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

Name of Agency Personnel Responsible for Drafting: Deb Cummins, P.O. Box 45330, Olympia, WA 98504, (360) 725-3716; Implementation and Enforcement: Linda Graves, P.O. Box 45330, Olympia, WA 98504, (360) 725-3813.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

See Reviser's note below.

A copy of the statement may be obtained by contacting Linda Graves, Division of Behavioral Health and Recovery, P.O. Box 45330, Olympia, WA 98504, phone (360) 725-3813, fax, (360) 586-0343, e-mail linda.graves@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Linda Graves, Division of Behavioral Health and Recovery, P.O. Box 45330, Olympia, WA 98504, phone (360) 725-3813, fax, (360) 586-0343, e-mail linda.graves@dshs.wa.gov.

August 26, 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 10-19 issue of the Register.

WSR 10-18-103
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 1, 2010, 9:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-19-121.

Title of Rule and Other Identifying Information: Factory assembled structures, chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., S119, Tumwater, WA, on October 5, 2010, at 10:00 a.m.

Date of Intended Adoption: November 16, 2010.

Submit Written Comments to: Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by October 5, 2010.

Assistance for Persons with Disabilities: Contact Sally Elliott by September 22, 2010, (360) 902-6411 or yous235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department reviewed the factory assembled structure rules to ensure the rules are consistent with industry practice, are clear, and for possible housekeeping changes.

The following changes will be made:

- Amend language to reflect current code references. For example, references to the Uniform Building Code will be changed to the International Building Code.
- Amend the process to require manufacturers to maintain a contractor deposit (CD) account for inspections. This is in response to an internal audit finding and no minimum balance is required for this account.

- Remove language that references community, trade, and economic development (CTED). There were a few references that were missed during the last rule making.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 43.22 RCW.

Statute Being Implemented: Chapter 43.22 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Rich Ervin, Tumwater, Washington, (360) 902-5571; Implementation and Enforcement: Steve McClain, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined the proposed rules do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law. The proposed changes integrate the new national consensus standards as adopted by the State Building Code and clarify the rule without changing its effect (see RCW 19.85.025 referencing RCW 34.05.310 (4)(c) and (d)).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Sally Elliott, Legislation and Rules Manager, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail yous235@lni.wa.gov.

September 1, 2010

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 05-23-002, filed 11/3/05, effective 12/4/05)

WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department? All requests for design-plan approval must include:

- (1) A completed design-plan approval request form;
- (2) Two sets of design plans plus elevation drawings, specifications, engineering analysis, and test results and procedures necessary for a complete evaluation of the design; (see WAC 296-150C-0340 and 296-150C-0350.)

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

- (a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) Receipt of a one-time initial design plan filing fee and the initial design plan fee (see WAC 296-150C-3000);

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules;

(6) The occupancy class of the commercial coach according to the occupancy classifications in the ~~((Uniform))~~ International Building Code;

(7) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper ~~((NCE))~~ NEC or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(8) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(9) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(10) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

NEW SECTION

WAC 296-150C-0495 Contractor deposit accounts.

Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department,

must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-0800 What manufacturing codes apply to commercial coaches? (1) All design, construction, and installations of commercial coaches must conform with the following codes and the requirements of this chapter:

(a) The latest adopted version of the Washington State Ventilation and Indoor Air Quality Code, as adopted by chapter 51-13 WAC;

(b) The structural and other requirements of this chapter;

(c) Occupancy classification only from chapter 3 of the International Building Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-50 WAC, except commercial coaches must not be group H or R-3 occupancy;

(d) Accessibility requirements of chapter 11 of the International Building Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-50 WAC;

(e) Section 1607 Uniform and concentrated floor loads and footnotes of the International Building Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-50 WAC;

(f) The International Mechanical Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-52 WAC except when conflicting with the provisions of this chapter, this chapter controls;

(g) The National Electrical Code as referenced in chapter 19.28 RCW and chapter 296-46B WAC;

(h) The ~~((latest adopted version of the))~~ Washington State Energy Code, current edition, as adopted according to chapter 19.27A RCW;

(i) The Uniform Plumbing Code, current edition, as adopted and amended according to chapter 19.27 RCW;

(j) Where there is a conflict between codes, an earlier named code takes precedent over a later named code. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive governs. Where there is a conflict between a general requirement and a special requirement, the specific requirement must be applicable.

(2) All construction methods and installations must use accepted engineering practices, provide minimum health and safety to the occupants of commercial coaches and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

Note: The codes, RCW's and WAC's referenced in this rule are available to view at the Washington State Library, the Washington State Law Library, and may also be available at your local library.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150C-0810 Construction definitions. The following definitions and the definitions in each of the state codes adopted in WAC 296-150C-0800 apply to commercial coach construction.

"Anchoring system" is the means used to secure a commercial coach to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, or other components.

"Ceiling height" is the clear vertical distance from the finished floor to the finished ceiling.

"Chassis" means that portion of the transportation system comprised of the following: Drawbar coupling mechanism and frame.

EXCEPTION: The running gear assembly shall not be considered as part of the chassis.

"Dead load" is the vertical load resulting from the weight of all permanent structural and nonstructural parts of a commercial coach including walls, floors, roof, partitions, and fixed service equipment.

"Diagonal tie" is a tie intended primarily to resist horizontal or shear forces and secondarily may resist vertical, uplift, and overturning forces.

"Dormitory" is a room designed to be occupied by more than two persons.

"Exit" is a continuous and unobstructed means of egress to a public way.

"Frame" means the fabricated rigid substructure, which provides support to the affixed commercial coach structure both during transport and onsite. It is considered a part of the commercial coach.

"Glazed opening" is a glazed skylight or an exterior window or glazing of a door of a commercial coach.

"Gross floor area" is the net floor area within the enclosing walls of a room where the ceiling is at least five feet high.

"Habitable room" is a room or enclosed floor space arranged for living, eating, food preparation, or dormitory sleeping purposes. It does not include bathrooms, toilet compartments, foyers, hallways, or other accessory floor spaces. Any reference to "habitable dwelling" in this chapter means a temporary structure not used as a single family dwelling.

"Interior finish" is the surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the commercial coach structure, including paint and wallpaper. Decorations or furnishings attached to the commercial coach structure are considered part of the interior finish.

"Live load" is the weight superimposed by the use and occupancy of the commercial coach, including wind load and snow load, but not including dead load.

"Perimeter blocking" is support placed under exterior walls.

"Shear wall" is a wall designed and constructed to transfer lateral loads.

"Tiedown" is a device designed to anchor a commercial coach to ground anchors.

"Use" or "occupancy classification" is the designed purpose of a commercial coach according to the ~~((Uniform))~~ International Building Code.

"Wind load" is the lateral or vertical pressure or uplift created by wind blowing in any direction.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-1150 Hallways. (1) Hallways in structures required to meet accessibility standards must have a minimum horizontal dimension that conforms to accessibility standards set by the ~~((Washington state Uniform))~~ International Building Code, current edition, standards set in the accessibility standard in WAC 296-150C-0800 (1)(d).

(2) Hallways in nonaccessible construction site trailers must have a minimum horizontal dimension of 32 inches.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1330 Mechanical—General. This chapter applies to the installation of mechanical, ventilation, and indoor air quality equipment in any commercial coach bearing or required to bear a department insignia. Mechanical, ventilation, and indoor air quality equipment and installations in or on a commercial coach shall be installed according to the requirements of the ~~((Uniform))~~ International Mechanical Code ~~((, the Washington State Ventilation and Indoor Air Quality Code, the rules of this chapter, and the conditions of the equipment approval or listing agency))~~, current edition.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1340 Mechanical definitions. Definitions contained in the current adopted edition of the ~~((Uniform))~~ International Mechanical Code, current edition, and the following definitions apply to the commercial coaches.

"Accessible" is having access to a fixture, connection, appliance, or equipment that requires the removal of an access panel, door, or similar obstruction.

"Appliance compartment" is a room having a floor area not in excess of twice the largest plan area of the room's appliance or appliances plus clearances required in this chapter.

"Automatic pilot device" is a device employed with gas-burning equipment that will either automatically shut off the gas supply to the burner being served or automatically activate, electrically or otherwise, a gas shutoff device when the pilot flame is extinguished.

"Btuh" is British thermal units per hour.

"Clearance" is the distance between the appliance, chimney, vent, or chimney or vent connector, or plenum and the nearest surface.

"Combustible material" is a material adjacent to or in contact with a heat-producing appliance, vent connector, chimney, or steam and hot water pipes, made of or surfaced with wood, compressed paper, plant fibers, or other products that will ignite and burn. Such material must be considered

combustible even though flame-proofed, fire-retardant treated, or plastered.

"**Connector-gas appliance**" is a flexible or semi-rigid connector listed as conforming to ANSI Standard Z21.24, Metal Connectors for Gas Appliances, used to convey fuel gas, three feet or less in length (six feet or less for gas ranges), between a gas outlet and a gas appliance in the same room.

"**Fuel gas piping system**" is the arrangement of piping, tubing, fittings, connectors, valves, and devices designed and intended to supply or control the flow of fuel gas to an appliance.

"**Gas**" is fuel gas, such as natural gas, manufactured gas, undiluted liquefied petroleum gas (vapor phase only), liquefied petroleum air-gas mixtures, or mixtures of these gases that would ignite in the presence of oxygen.

"**Gas-supply connection**" is the terminal end or connection to which a gas-supply connector is attached.

"**Input rating**" is the maximum fuel-burning capacity of any warm-air furnace, recessed heater, or burner expressed in British thermal units per hour.

"**Liquefied petroleum gases (LPG)**" is any material that is composed predominantly of propane, propylene, butanes (normal butane or isobutane), and butylenes, or any mixture of them.

"**Quick-disconnect device**" is a hand-operated means of connecting and disconnecting a gas supply or connecting gas systems and is equipped with an automatic device to shut off the gas supply when disconnected.

"**Readily accessible**" is having direct access without the necessity of removing any panel, door, or similar obstruction.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1470 Ventilation and indoor air quality—General. Ventilation and indoor air quality equipment and installations in or on a commercial coach must be made according to the requirements of ~~((the Washington State Ventilation and Indoor Air Quality Code,))~~ the ~~((Uniform))~~ International Mechanical Code, current edition, the rules of this chapter, and the conditions of the equipment approval.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1480 Ventilation and indoor air quality definitions. ~~((Definitions contained in the current adopted edition of the Washington State Ventilation and Indoor Air Quality Code and))~~ The ~~((Uniform))~~ International Mechanical Code, current edition, and the following definitions apply to the commercial coach ventilation and indoor air quality rules in this chapter.

"**Duct**" is a conduit or passageway for conveying air to or from heating, cooling, air conditioning, or ventilation equipment, not including the plenum.

"**Plenum**" is an air compartment that is part of an air-distributing system to which one or more ducts are connected.

- **A furnace-supply plenum** is a plenum attached directly to, or an integral part of, the air-supply outlet of the furnace.
- **A furnace-return plenum** is a plenum attached directly to, or an integral part of, the return inlet of the furnace.

"**Vent connector**" is a pipe for conveying products of combustion from a fuel-burning appliance to a vent.

"**Water heater**" is an appliance for heating water for domestic purposes other than for space heating.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150F-0020 What definitions apply to this chapter? "Approved" is approved by the department of labor and industries.

"**Building site**" is a tract, parcel, or subdivision of land on which a factory-built house or commercial structure will be installed.

"**Component**" is a part or element of another system as defined by the International Building Code, section 202, and is:

- Designed to be installed in a structure;
- Manufactured as a unit; and
- Designed for a particular function or group of functions.

A component may be a service core or other assembly that is a factory assembled section of a building. It may include mechanical, electrical, plumbing, and related systems. It may be a complete kitchen, bathroom, or utility room. Service cores are referred to as "wet boxes," "mechanical cores," or "utility cores."

Note: A roof truss is not considered a component.

"**Damaged in transit**" is damage that effects the integrity of the structural design or damage to any other system referenced in the codes required by the State Building Code, or other applicable codes.

"**Department**" is the department of labor and industries. The department may also be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"**Design plan**" is a plan for the construction of factory-built housing, commercial structures, or components that includes floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"**Design option**" is a design that a manufacturer may use as an option to its design plan.

"**Educational facility**" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"**Equipment**" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of factory-built housing, commercial structures, and components.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to factory-built housing, commercial structures and components. (See RCW 43.22.420.)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC ((296-46B-010)) 296-46B-900.)

"Insignia" is a label that we attach to a structure to verify that a factory-built house or commercial structure meets the requirements of this chapter. It could also be a stamp or label attached to a component to verify that it meets the requirements of this chapter.

"Install" is to erect or set in place a structure at a building site. It may also be the construction or assembly of a component as part of a factory-built house or commercial structure.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Listing agency" is an organization whose business is approving equipment, components, or installations for publication.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of factory-built housing and commercial structures.

"Manufacturing" is making, fabricating, forming, or assembling a factory-built house, commercial structure, or component.

"Master design plan" is a design plan that expires when a new State Building Code has been adopted.

~~(("Manufacturing" is making, fabricating, forming, or assembling a factory built house, commercial structure, or component-))~~

"One-year design plan" is a design plan that expires one year after approval or when a new State Building Code has been adopted.

"Repair" is the replacement, addition, modification, or removal of any construction, equipment, system, or installation to correct damage in transit or during on-site installation before occupancy.

"Temporary factory built structure" is a building built not set on a permanent foundation, which is used for

temporary occupancy such as educational, commercial, or agricultural building. The building must meet the requirements of this section and the installation requirements. As required under RCW 43.22.480 all alterations to temporary built structures must be preapproved by the department.

"Unit" is a factory-built house, commercial structure, or component.

"Used structure" is a building as defined by section 202 of the International Building Code that has been given a certificate of occupancy by the local building department and has been occupied.

NEW SECTION

WAC 296-150F-0090 What are the requirements for certified plumbers and electricians? Plumbers certified under chapter 18.106 RCW and electricians certified under chapter 19.28 RCW are required for units constructed in Washington. For the purposes of construction at the manufacturing facility, the manufacturer is not required to be a licensed electrical contractor under chapter 19.28 RCW or a registered contractor as required by chapter 18.27 RCW. Manufacturers may hire registered plumbing contractors or licensed electrical contractors to meet this requirement.

Work performed outside the manufacturer's facility must be performed by a registered contractor under chapter 18.27 RCW, electrical contractor and electricians under chapter 19.28 RCW, and certified plumbers under chapter 18.106 RCW.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0230 What are the insignia application requirements? (1) If you are requesting insignia for units that you intend to manufacture under a *new design plan*, your completed application must include:

- (a) A completed design plan approval request form;
- (b) ~~((One))~~ Two complete sets of design plans, specifications, engineering analysis, test procedures and results, plus one additional set for each manufacturing location where the design plan will be used;
- (c) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. We will retain the set with the original wet stamp; and
- (d) A one-time initial filing fee, the design plan fee (if we approve your design plan) and the fee for each insignia. (See WAC 296-150F-3000.)

(2) If you are requesting insignia under an *approved design plan*, your completed application must include:

- (a) A completed application for insignia form; and
- (b) The fee for each insignia requested. (See WAC 296-150F-3000.)

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0310 Who can approve design plans? (1) Design plans can be approved by us or by a

licensed professional or firm authorized by us (see WAC 296-150F-0420 and 296-150F-0430).

(2) All electrical design plans for new or altered electrical installations for educational institutions, health care facilities, and other buildings (see chapter ~~(s 296-46, 296-130, 296-140, and 296-150)~~ 296-46B WAC Table ~~((+))~~ 900-1 or ~~((2))~~ 900-2) must be reviewed and approved by us.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;

(2) Two complete sets of design plans, specifications, engineering analysis, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150F-0340 and 296-150F-0350);

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) A one-time initial filing fee and the design-plan fee (see WAC 296-150F-3000); and

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

(6) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(7) All electrical plans for new or altered electrical installations in educational, institutional, and health or per-

sonal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(8) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320 ~~((, 180-29,))~~ and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(9) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

NEW SECTION

WAC 296-150F-0325 What are the requirements for temporary built structures? Structures built for temporary built use must meet all the requirements of this chapter and installation for temporary installation.

NEW SECTION

WAC 296-150F-0495 Contractor deposit accounts. Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0600 What manufacturing codes apply to factory-built housing and commercial structures? (1) All design, construction, installations, and alterations of factory-built housing, commercial structures, and components must conform with the following codes and the requirements of this chapter:

(a) The State Building Code, chapter 19.27 RCW;

Note: The ~~((Uniform))~~ International Building Code reference to "building official" means the chief prefabricated building specialist or authorized representative at the department of labor and industries.

(b) The Energy Related Building Standards, chapter 19.27A RCW;

(c) The National Electrical Code as referenced in chapter 19.28 RCW and chapter ~~(s 296-46 and 296-404)~~ 296-46B WAC.

(2) All construction methods and installations must use accepted engineering practices, provide minimum health and safety to the occupants of factory-built structures and the public, and demonstrate journey person quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards, provided the deviation does not result in inferior installation or defeat the purpose and intent of the standard.

Note: The codes, RCW's, and WAC's referenced in this rule are available for reference at the Washington State Library, the Washington State Law Library, and may be available at your local library.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building? Under the following conditions, the department will allow the required toilet facilities to be located in adjacent building(s):

(1) The manufacturer shall note in the plan submittal that the requirements of IBC Chapter 29, Section ~~((2902))~~ 2902.1 and Section ~~((2902.1))~~ 2902.2, as amended by the state building code must be verified by the building official; and

(2) A Notification to Local Enforcement Agency (NLEA) must accompany each unit so that the requirements of IBC Chapter 29, Section ~~((2902))~~ 2902.1 and Section ~~((2902.1))~~ 2902.2 as amended by the state building code can be verified by the building official.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0060 Who handles consumer complaints about manufactured homes? The ~~((Washington state))~~ department ~~((of community, trade and economic development (CTED), office of manufactured housing section))~~ handles consumer complaints about manufactured homes. ~~((CTED))~~ The department is the state administrative agency (SAA) for the United States Department of Housing and Urban Development for the federal manufactured home program. You can contact us at 1-800-647-0982.

AMENDATORY SECTION (Amending WSR 08-12-041, filed 5/30/08, effective 6/30/08)

WAC 296-150M-0306 What codes are used when altering a manufactured/mobile home? Alterations to a manufactured/mobile home must be in compliance with the Manufactured Home Construction and Safety Standards, 24 CFR Part 3280, as adopted by the Secretary for the Department of Housing and Urban Development (HUD) and the amendments to that federal standard adopted in this WAC chapter. The department will accept the following provisions,

which supersede the applicable requirements in 24 CFR Part 3280.

(1) Tested equivalent air conditioning/heat pump components that have been tested and listed for use with a particular furnace by a nationally recognized testing laboratory.

Note: For the installation of HVAC units in display homes located on dealer lots, a mechanical permit is not required until the home is located on-site. An electrical permit is required for the electrical circuit to the disconnect for the outdoor unit.

(2) Water heaters that are listed by a nationally recognized testing laboratory and installed per the manufacturer's installation instructions.

(3) Water heater pans are only required where the installation instructions are specific for warranty or the home was produced after June 2006. The pressure relief line must exit the skirting of the home as well as the drain line for any pan installed. The relief line and drain line are not to be interconnected.

(4) Expansion tanks are not required by the department; check with the local jurisdiction for their requirements prior to installation of a water heater.

Note: For installation of electrical furnaces and/or water heater in pre-HUD homes, the requirement of 24 CFR Part 3280.203 for flame spread limitations is waived as long as the installation meets the requirement of the installed appliance for distance from combustibles.

~~((3))~~ (5) Pellet stoves for installation that have been listed by a department approved nationally recognized testing laboratory. For a current list of approved laboratories, contact any department field office or the department at the address shown in WAC 296-150M-0020.

~~((4))~~ (6) All electrical alterations and additions to the manufactured/mobile home shall comply with the current edition of the National Electrical Code.

Electrical disconnects must be secured to a manufactured/mobile structural member (not the skirting) and have a 30" x 30" clearance for maintenance.

~~((5))~~ (7) Electrical connection requirement for additions and equipment.

(a) Any circuit or feeder that is supplied from a pedestal or panel in an out building feeding the manufactured/mobile home requires a permit from the electrical section.

(b) Any circuit or feeder that originates from the manufactured/mobile home's panel and feeds an addition that is structurally attached, or equipment that is structurally attached (i.e., heat pump or air conditioning unit) requires an FAS alteration permit.

(c) Any circuit or feeder that originates in the manufactured/mobile home panel and feeds an unattached structure or equipment (i.e., hot tub, pool, well, septic system, yard lighting or generation equipment) requires two inspections. An FAS permit is required for the circuit or feeder from the panel and shall terminate in a J-box located under the home's exterior wall near the rim joist. A second permit is required from the electrical section from the J-box to the equipment or structure.

(8) The International Residential Code for structural alterations.

Note: The replacement of exterior siding is an alteration and requires the approval of the department and an alteration insignia.

~~((6))~~ (9) The use of corrugated stainless steel tubing (CSST) is allowed when installed according to the manufacturer installations instructions for mobile/manufactured homes by the following CSST manufacturers:

- (a) Gastite;
- (b) TracPipe;
- (c) Pro-Flex;
- (d) Wardflex.

~~((7))~~ (10) Installation of gas room heaters in bedrooms must:

(a) Have direct vented (sealed combustion) and be listed as UL 307A for liquid fuel burning heater or ANSI Z21.88 and ANSI Z21.86 for vented gas fireplaces.

(b) Not be able to draw combustion air from the living space and must be designed so that it will become inoperative if any door, latch, or opening is not properly sealed.

(c) Have a smoke detector, listed to UL 217. The smoke detector can either be hardwired or battery powered and installed according to the manufacturer's installation requirements.

(d) Have a carbon dioxide (CO₂) detector, listed to UL 2034. The CO₂ detector must be installed according to the manufacturer's installation requirements.

(e) Have at least one means of egress.

AMENDATORY SECTION (Amending WSR 08-12-041, filed 5/30/08, effective 6/30/08)

WAC 296-150M-0410 What are the requirements for altering mobile/manufactured homes? (1) Roof over framing (dormer) additions to manufactured/mobile homes must meet the following requirements:

~~(a) ((Maintain a minimum twenty pound roof, live load, and provide documentation to the department.~~

~~(b) The dead load for the dormer must be the difference between the live load design of the roof and the roof design snow load of the manufactured/mobile home location (as per Snow Load Analysis for Washington, by Structural Engineers Association of Washington).~~

~~(c) Existing roofing material, other than the sheathing, must be completely removed under the dormer.~~

~~(d) An engineering analysis shall take into account the wind load on the structure, when the dormer extends above the original ridge line of the manufactured/mobile home.~~

~~(e) The engineer or architect of record must clarify in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same live load, for generic designs that are to be used more than one time.~~

~~(f) Submit all manufactured/mobile home alterations to the department to be reviewed by plan review for compliance.~~

~~(2) Reroofing of a manufactured/mobile home must be installed and vented according to the manufacturer's installation instructions.~~

~~(a) Existing asphalt roof will require removal of the original asphalt roofing material prior to the installation of new asphalt roofing.~~

~~(b) If the original asphalt roofing material is not removed and a second layer of asphalt roofing is added, an engineering analysis must be completed to ensure that the existing roof structure can support the additional load while maintaining a 20 psf live roof load.~~

~~(c) Metal roofing with or without insulation board applied after removing existing asphalt shingles must:~~

~~(i) Follow the roofing manufacturer's installation requirements.~~

~~(ii) Maintain minimum pitch of the roof as required by the roofing manufacturer's installation requirements.~~

~~(d) Metal roofing with or without insulation board over an existing metal roof must:~~

~~Allow the metal roof to be installed over another metal roof as required by the manufacturer's installation requirements.) A manufactured/mobile home must maintain a minimum twenty pounds roof live load.~~

~~(b) The difference between the live load design of the roof and the roof design snow load of the manufactured/mobile home location (as per Snow Load Analysis For Washington, by Structural Engineers Association of Washington) can be used as dead load for the roof over framing (dormer).~~

~~(c) Existing roofing material other than the sheathing must be completely removed under the over framing (dormer).~~

~~(d) For nonengineered design approved construction, documentation must be provided that the manufactured/mobile home has at least a thirty pounds roof live load.~~

~~(e) Where the over framing (dormer) extends above the original ridge line of the manufactured home/mobile home, an engineering analysis shall take into account the wind load on the structure.~~

~~(f) On generic designs that are to be used more than one time, the engineer or architect of record must clarify in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same make and live load.~~

~~(g) Each manufactured/mobile home alteration will be reviewed by plan review for compliance.~~

~~(2) The reroofing of a manufactured/mobile home requires an alteration permit be purchased and the replacement roof inspected. Reroofs are done in several ways and shall comply with the following as appropriate:~~

~~(a) Most reroofs will be covered in the checklist "Alteration Re-Roofing Permit for Low Slope Roof Applications" which requires removal of the original asphalt roofing materials. See page 19-j-21.~~

~~(b) Other types of reroofs will normally fall under one of the following:~~

~~(c) Original asphalt roofing materials not removed and a second layer of asphalt roofing is to be applied.~~

~~(i) On HUD labeled homes this will require an engineering analysis to assure that the existing roof structure can support the additional loads while maintaining the roof live load noted on the data plate.~~

(ii) On pre-HUD homes this will require an engineering analysis to assure that the existing roof structure can support the additional loads while maintaining a 20 psf live roof load. A plan review is required.

(d) Metal roofing with or without insulation board applied after removing existing asphalt roofing.

(i) Installer must follow the roofing manufacturer's installation instructions.

(ii) The metal roofing manufacturer's requirements for minimum pitch of the roof must be complied with.

(iii) No plan review is required.

(e) Applying metal roofing with or without insulation board over existing asphalt shingles. Five items must be complied with:

(i) On HUD labeled homes this would require an engineering analysis to assure that the existing roof structure can support the additional loads while maintaining the roof live load noted on the data plate.

(ii) On pre-HUD homes this will require an engineering analysis to assure that the existing roof structure can support the additional loads while maintaining a 20 psf live roof load.

(A) A plan review is required.

(B) The metal roofing manufacturer's installation instructions must allow the metal roof to be installed over asphalt shingles. Some metal roofing manufacturers will not allow their material to be installed over asphalt shingles:

(C) The metal roofing manufacturer's requirements for minimum pitch of the roof must be complied with; and

(D) All other installation instructions of the metal roofing manufacturer must be complied with.

(f) Applying metal roofing with or without insulation board over an existing metal roof. Three items must be complied with:

(i) The metal roofing manufacturer's installation instructions must allow the metal roof to be installed over another metal roof.

(ii) The metal roofing manufacturer's requirements for minimum pitch of the roof must be complied with; and

(iii) All other installation instructions of the metal roofing manufacturer must be complied with.

(iv) No plan review is required.

(3) Replacing floor decking must meet the following requirements:

(a) Plan review is not required for the following:

(i) The floor decking being replaced is not greater than forty-eight inches by ninety-six inches of each section of home.

(ii) Two-by-six blocking is added to each floor joist and secured with 16d nails at six inches on center.

(iii) Two-by-six blocking is added at the ends of the cut such that one-half is under the existing decking and one-half is under the decking being replaced and is secured with 16d nails, two at each joint (toe nailing is acceptable).

(iv) Adding floor decking that is the same thickness and grade as originally installed.

(v) Adding decking that is secured with construction adhesive bead and #8x1-3/4 inch screws at six inches on center.

(b) Plan review is required, but engineering will not be required under the following condition:

(i) The floor decking being replaced is greater than forty-eight inches by ninety-six inches.

(ii) The decking being replaced is no more than fifty percent of the floor length, each section of home.

(iii) The decking being replaced is no more than seventy-five percent of the floor width, each section of home.

(c) If the floor decking being replaced is greater than ~~((forty-eight inches by ninety-six inches of each section of home))~~ above, then both plan review and engineering will be required.

(d) On generic designs that are to be used more than once, an engineer or architect must clearly state in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same manufacturer.

(4) Additions (i.e., rooms, garages, carports, etc.) added to manufactured/mobile homes.

(a) Labor and industries factory assembled structures section is responsible for any alterations to the manufactured/mobile home. This includes:

(i) Any opening that is added or changed.

~~(ii) ((Electrical circuits added to the addition that come from the electrical panel in the manufactured/mobile home.~~

~~((iii)))~~ Using the manufactured/mobile home for support of the addition.

(b) A plan review is required when adding an addition to a manufactured/mobile home for:

(i) Openings not constructed per the ~~((department))~~ department's minimum header structural requirements detail.

(ii) Manufactured/mobile homes which use the structure for support of the addition.

(iii) Adding a dormer on the home.

Note: An engineer or architect licensed in Washington state must design the plans and seal the plans and calculations. The department's FAS plan review section will perform a plan review.

~~((e) Labor and industries electrical section is responsible for any electrical circuits added to the manufactured/mobile home that come from the pedestal where the electrical section has electrical inspection authority. Some cities have electrical inspection authority and would make those electrical inspections in their jurisdiction.~~

~~((d))~~ (c) Local jurisdiction (city or county) is responsible for the inspection of the addition except as noted above.

~~((e))~~ (d) Items to pay particular attention to:

(i) If the addition is being served by a required egress door:

- The lock must be removed and nonlocking passage hardware installed or the door may be removed entirely leaving a passageway.

- An exit door equal in size to the one removed must be installed in the addition.

(ii) If the addition is being served by a 3rd door and the other doors meet the egress requirements outlined above, no changes to the exterior door are required.

(iii) Electrical circuits run from the manufactured/mobile home electrical panel must:

- Be in conduit if routed under the home; and
- Terminate at the edge of the home in a junction box.

(iv) The addition may be flashed to the manufactured/mobile home for purposes of sealing the exterior joint and may have trim installed on the interior for finishing.

(5) Attaching awnings and carports and garages.

(a) Self-supporting awnings and carports.

When awnings and carports are self-supporting they may be flashed to the manufactured/mobile home and no permit is required from L&I FAS section. Please check with your local jurisdiction building department for any permits required by them.

(b) Awnings and carports using the home for support.

Aluminum or wood awnings and carports that use the manufactured/mobile home for support will need to:

- Have the connections to the home designed and the additional load on the home analyzed by an engineer or architect licensed in Washington state. The engineer or architect will need to seal these designs and calculations;

- The installer must submit the designs to the FAS plan review section for a review; and

- The installer must have the installation inspected, after the plans are approved.

(c) Manufactured home comes from factory garage ready.

If the manufactured home comes from the factory garage ready, no inspection is required by L&I. Garage ready from the factory means:

- Dormers, if required, are installed by the factory;
- All gypsum board required on the home has been installed at the factory;

- Any door between the home and the garage meets the requirements for separation of a residence from a garage as required by the building code;

- All electrical installations meet the requirements of the National Electrical Code for one hour walls;

- The dryer outlet termination has been designed at the factory to not exhaust into the garage; and

- No other changes are required to the manufactured home at the installation site.

Note: If any changes are required to the manufactured home at the installation site, an alteration permit is required from the department.

(d) Manufactured/mobile home is not garage ready.

If the manufactured/mobile home is not garage ready when it leaves the factory, an alteration permit is required. Engineering analysis and plan review may also be required if additional loads are placed upon the home or openings are made or changed.

The following are some examples of when a plan review would be required:

- A dormer is added;
- An opening in the home is made or changed (Note: Openings constructed to the department's approved details would not require a plan review); and
- Gypsum board is added to the wall of the home.

Items to also be aware of:

When a garage is to be attached to a manufactured/mobile home, the following must also be considered:

- The means of egress through exterior doors is not compromised (two are required);

- The means of egress from the bedroom(s) is not compromised (one egress directly to the exterior from each); and/or endwalls are usually shearwalls and any additional openings in them will need an engineering analysis and plan review to substantiate.

(6) Decertification of a manufactured/mobile home.

(a) Can only be decertified if the jurisdiction having authority will allow the unit to remain on the property.

(b) All electrical components, including the electrical panel, receptacles, switches and light must be removed and wires cut to where they enter the device.

(c) All plumbing fixtures and exposed plumbing water, drain and waste lines must be cut off where they enter any wall, floor or ceiling.

(d) All mechanical components including water heaters, furnaces, and kitchen appliances must be removed from the home.

(7) Extensive bottom paper/bottom board that is damaged during transportation or is removed for any reason requires a structural alteration permit. The repair must include:

(a) Replacement of the floor insulation to the equivalent R-value.

(b) All potable water lines are insulated to a minimum R4.

(c) Bottom board material shall be of material suitable for preventing the infestation of rodents (such as building wrap) and be suitable for patching. Plastic is not allowed for use as bottom board material.

(d) All openings sealed to prevent rodents.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

WAC 296-150P-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, ((1998)) current edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" see Appendix 'C' of ANSI A119.5 for reference to the appropriate edition to use for compliance.

"Recreational park trailer" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

AMENDATORY SECTION (Amending WSR 08-10-075, filed 5/6/08, effective 6/6/08)

WAC 296-150R-0020 What definitions apply to this chapter? **"Alteration"** is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel systems and equipment or electrical systems of a recreational vehicle.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;

• Modification of a fuel burning appliance according to the terms of its listing; and

- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a vehicle alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to *Low Voltage Systems in Conversion and Recreational Vehicles and Uniform Plan Approval for Recreational Vehicles*. For the purposes of this chapter, references to ANSI mean ANSI/RVIA 12V *Low Voltage Systems* 2008 Edition and ANSI/RVIA UPA-1 *Standard on Uniform Plan Approval for Recreational Vehicles* 2003 Edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"Consumer" is a person or organization who buys or leases recreational vehicles.

"Dealer" is a person or organization whose business is offering recreational vehicles for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle manufacturer.

"National Electrical Code" see Chapter 2 of NFPA 1192 *Standard on Recreational Vehicles*, 2008 Edition, for reference to the appropriate edition to use for compliance.

"NFPA" is National Fire Protection Association, and the institute's rules applicable to recreation vehicles. For the purpose of this chapter, references to NFPA means NFPA 1192 *Standard on Recreational Vehicles*, 2008 Edition.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter, ANSI, and NFPA.

"Recreational vehicle" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. Or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross area less than four hundred square feet. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

"Self-certification insignia" is an insignia which is obtained under the self-certification approval process.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational vehicle that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"Vehicle" for the purposes of this chapter, is a recreational vehicle.

AMENDATORY SECTION (Amending WSR 99-12-079, filed 5/28/99, effective 6/28/99)

WAC 296-150T-0200 Who must purchase factory-built temporary worker housing insignia? (1) You must obtain insignia from us for each factory-built temporary worker (~~(housing)~~) housing unit sited in Washington state.

(2) You must have an approved design plan and have passed inspection before an insignia can be attached to your factory-built temporary worker housing structure by us or our authorized agent.

(3) If a unit is damaged in transit after leaving the manufacturing location or during an on-site installation, and a repair is necessary, you must purchase a new insignia from us. The new insignia indicates that the unit was repaired.

NEW SECTION

WAC 296-150T-0495 Contractor deposit accounts. Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 99-12-079, filed 5/28/99, effective 6/28/99)

WAC 296-150T-0600 What manufacturing codes apply to factory-built temporary worker housing? (1) All design, construction, installations, and alterations of factory-built temporary worker housing structures must conform with the following codes and the requirements of this chapter:

(a) The temporary worker housing construction code, chapter 246-359 WAC;

(b) The National Electrical Code as referenced in chapter 19.28 RCW and in chapter ~~((296-46))~~ 296-46B WAC.

(2) All construction methods and installations must comply with chapter 246-359 WAC and use accepted engineering practices when used, provide minimum health and safety to the occupants of factory-built temporary worker housing

structures and the public, and demonstrate journey person quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards, provided the deviation does not result in inferior installation or defeat the purpose and intent of the standard.

Note: The codes, RCWs, and WACs referenced in this rule are available for reference at the Washington State Library, the Washington State Law Library, and may be available at your local library.

NEW SECTION

WAC 296-150V-0495 Contractor deposit accounts.

Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

WAC 296-150V-0800 What codes apply to conversion vendor units or medical units? (1) A conversion vendor unit or medical unit must comply with the following codes where applicable:

(a) The ~~((Uniform))~~ current edition of the International Mechanical Code, with the amendments made by the Washington State Building Code Council, chapter ~~((51-42))~~ 51-52 WAC.

(b)(i) For conversion vending/medical units Article 551, Parts I through VI of National Electrical Code/National Fire Protection Agency (NFPA) 70, ~~((2002))~~ current edition or Article 552, Parts I through V Article of National Electrical Code/National Fire Protection Agency (NFPA) 70, ~~((2002))~~ current edition.

(ii) For medical units the National Electrical Code (NFPA 70, current edition) as referenced in ~~((chapter 19.28 RCW))~~ Article 517 for Patient Care Areas and chapter ~~((296-46A))~~ 296-46B WAC ~~((, installing electric wires and equipment))~~.

(c) Chapter 7 of ~~((American National Standards Institute (ANSI) A119.2, 2002))~~ the National Fire Protection Association (NFPA 1192), current edition or the Uniform Plumbing Code as adopted and amended according to chapter 19.27 RCW.

(d) The Washington State Building Code Council, chapter ~~((51-40))~~ 51-50 WAC, ~~((Uniform))~~ International Building Code, Chapter 11, Accessibility as applies to the exterior of the unit relating to customer service facilities in section 1105.4.7.

~~((e) The Washington State Energy Code, as adopted according to chapter 19.27A RCW, and the Washington State Ventilation and Indoor Air Quality Code, chapter 51-13 WAC, when heating and/or air conditioning is installed.))~~

(2) Provide minimum health and safety to the occupants of conversion vendor units and medical units and the public,

and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The conversion vendor unit or medical unit may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

Exception: Sign circuits required by Article 600 of the National Electrical Code will not be required.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150V-1180 What requirements apply to conversion vendor unit exits ~~((on all units approved after December 31, 1999))~~? At least one conversion vending unit exit or medical unit exit must meet the following requirements:

- (1) Exterior doors must be constructed for exterior use.
- (2) The exterior door must be at least a twenty-eight inch wide clear opening by seventy-two inches high.
- (3) Locks must be operable from the interior of the unit without use of a key.
- (4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.
- (5) Existing units with doors less than twenty-eight inches in width must have a second means of exit. The second means of exit for converted units shall be twenty-four inches by seventeen inches, and for newly built units exits must be a minimum of five square feet of openable area.
- (6) Pass-through windows shall be safety glazed based on the IBC Section 2406.1.

Exception: When there are employees, a minimum of twenty-eight inches clear opening must be provided.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-1185 What exit door requirements apply to self-propelled medical unit exits? Exit door(s) on self-propelled medical units must meet the following requirements:

- (1) Exterior doors must be constructed for exterior use.
- (2) The exterior door must be at least a twenty-eight inches wide clear opening by seventy-two inches high.
- (3) Locks must be operable from the interior of the unit without use of a key.
- (4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.
- (5) ~~((Units over twenty-four feet in length must have a minimum of two exit doors.))~~ Exit doors where the threshold of the door is more than fourteen inches above the adjacent grade or road surface must have landings, stairs, handrail, and guardrails meeting the requirements of IBC chapter 10 as referenced in chapter 51-50 WAC.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-1330 What are the mechanical requirements for a conversion vendor unit or medical unit? When mechanical and ventilation equipment is installed in or on a conversion vendor unit or medical unit, it must be installed according to the requirements of the ~~((Uniform))~~ International Mechanical Code, and to the conditions of the equipment approval or listing.

WSR 10-18-107

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Order 10-02—Filed September 1, 2010, 10:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-12-104.

Title of Rule and Other Identifying Information: The public employees benefits board (PEBB) rules related to enrollment in chapter 182-08 WAC; eligibility in chapter 182-12 WAC; and appeals in chapter 182-16 WAC.

Hearing Location(s): Health Care Authority, 676 Woodland Square Loop S.E., Room W302, Olympia, WA, on October 5, 2010, at 11:00 a.m.

Date of Intended Adoption: October 6, 2010.

Submit Written Comments to: Barb Scott, 676 Woodland Square Loop S.E., P.O. Box 42684, Olympia, WA 98504-2684, e-mail Barbara.Scott@hca.wa.gov, fax (360) 923-2602, by September 28, 2010.

Assistance for Persons with Disabilities: Contact Nikki Johnson by September 28, 2010, TTY (888) 923-5622 or (360) 923-2805.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The main purpose of this rule making is to amend PEBB rules in Title 182 WAC and adopt new rules to:

1. Align with and implement federal laws.
2. Align with state laws, including HB 2490 on respectful language.
3. Implement PEBB policy.
4. Clarify language regarding employer-level appeals.

In addition to these specific subject areas, health care authority will conduct a full review of PEBB rules in these chapters and make necessary technical corrections.

Statutory Authority for Adoption: Chapter 41.05 RCW.

Rule is necessary because of federal law, National Healthcare Reform legislation HR 3590 and HR 4872.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Barbara Scott, 676 Woodland Square Loop, Lacey, WA, (360) 923-2642; and Enforcement: Mary Fliss, 676 Woodland Square Loop, Lacey, WA, (360) 923-2640.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative

rules review committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

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

September 1, 2010

Jason Siems

Rules Coordinator

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-08-015 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates other meaning:

"Administrator" means the administrator of the health care authority (HCA) or designee.

"Agency" means the health care authority.

"Benefits eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114 (2) or (3)(a)(ii).

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Comprehensive employer sponsored medical" includes insurance coverage continued by the employee or their dependent under COBRA. It does not include an employer's retiree coverage, with the exception of a federal retiree plan.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13)(a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in PEBB medical insurance by a retiree or eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.

"Employer group" means those employee organizations representing state civil service employees, counties, municipalities, political subdivisions, tribal governments, school districts, and educational service districts participating in PEBB insurance coverage under contractual agreement as described in WAC 182-08-230.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is

enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission; as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

"Health plan" or "plan" means a medical or dental plan developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and includes the higher education personnel board and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability insurance, or property and casualty insurance administered as a PEBB benefit.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Life insurance" includes basic life insurance paid for by the employing agency, life insurance offered to employees on an optional basis, and retiree life insurance.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Open enrollment" means a time period when: Subscribers may apply to transfer their enrollment from one health plan to another; a dependent may be enrolled; a dependent may be removed from coverage; or an employee who previously waived medical may enroll in medical. Open enrollment is also the time when employees may enroll in or change their election under the DCAP, the medical FSA, or the premium payment plan. An "annual" open enrollment, designated by the administrator, is an open enrollment when all PEBB subscribers may make enrollment changes for the upcoming year. A "special" open enrollment is triggered by a specific life event. For special open enrollment events as they relate to specific PEBB benefits, see WAC 182-08-198, 182-08-199, 182-12-128, 182-12-262.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The administrator has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverage or other employee benefit administered by the PEBB program within the HCA.

"PEBB program" means the program within the HCA which administers insurance and other benefits for eligible employees of the state (as defined in WAC 182-12-114), eligible retired and disabled employees of the state (as defined in WAC 182-12-171), eligible dependents (as defined in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

"Termination of the employment relationship" means that an employee resigns or an employee is terminated and the employing agency has no anticipation that the employee will be rehired.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means to interrupt an eligible employee's enrollment in a PEBB health plan because the employee is enrolled in other comprehensive group coverage or is on approved educational leave (see WAC 182-12-128 and 182-12-136).

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-08-180 Premium payments and refunds. PEBB premiums for retiree, COBRA or PEBB continuation coverage begin to accrue the first of the month ~~((of))~~ in which PEBB insurance coverage is effective.

Premium is due for the entire month of insurance coverage and will not be prorated during the month of death or loss of eligibility of the enrollee except ~~((when eligible))~~ for life insurance premiums when the individual is eligible for life conversion.

PEBB premiums for employees, retirees, COBRA, or PEBB continuation coverage will be refunded using the following method:

(1) When any PEBB subscriber submits an enrollment change affecting eligibility, such as for example: Death, divorce, or when no longer an eligible dependent as defined at WAC 182-12-260 no more than three months of accounting adjustments and any excess premium paid will be refunded to any individual or employing agency except as indicated in WAC 182-12-148(4).

(2) Notwithstanding subsection (1) of this section, the PEBB assistant administrator or the PEBB appeals committee may approve a refund which does not exceed twelve months of premium if both of the following occur:

(a) The PEBB subscriber or a dependent or beneficiary of a subscriber submits a written appeal to the PEBB appeals committee; and

(b) Proof is provided that extraordinary circumstances beyond the control of the subscriber, dependent or beneficiary made it virtually impossible to submit the necessary information to accomplish an enrollment change within sixty days after the event that created a change of premium.

(3) Errors resulting in an underpayment to HCA must be reimbursed by the employing agency or subscriber to the HCA. Upon request of an employing agency, subscriber, or beneficiary, as appropriate, the HCA will develop a repayment plan designed not to create undue hardship on the employing agency or subscriber.

(4) HCA errors will be adjusted by returning the excess premium paid, if any, to the employing agency, subscriber, or beneficiary, as appropriate.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-08-196 What happens if my health plan becomes unavailable? Employees, retirees and survivors, and enrollees in PEBB continuation coverage for whom the chosen health plan becomes unavailable due to a change in contracting service area or the retiree's entitlement to medicare must select a new health plan within sixty days after notification by the PEBB program.

(1) Employees who fail to select a new medical or dental plan within the prescribed time period will be enrolled in a successor plan if one is available or will be enrolled in the Uniform Medical Plan, the Uniform Dental Plan, or a plan selected by the administrator, along with the employee's existing dependent enrollment.

(2) Retirees and survivors eligible under WAC 182-12-250 or 182-12-265 who fail to select a new health plan within the prescribed time period will be enrolled in a successor plan if one is available or will be enrolled in the Uniform Medical Plan, and the Uniform Dental Plan, or a plan selected by the administrator.

Any subscriber assigned to a health plan as described in this rule may not change health plans until the next open enrollment except as allowed in WAC 182-08-198.

(3) Enrollees in PEBB continuation coverage under WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, 182-12-148, or 182-12-270(2) must select a new health plan

no later than sixty days after notification by the PEBB program. If enrollees fail to select a new health plan within sixty days of the notification, health plan coverage will end as of the last day of the month in which the plan is ~~((no longer))~~ available.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-08-197 When must newly eligible employees select PEBB benefits and complete enrollment forms?

(1) Employees who are newly eligible for PEBB benefits must complete the appropriate forms indicating enrollment and their health plan choice, or their decision to waive medical under WAC 182-12-128. Employees must return the forms to their employing agency no later than thirty-one days after they become eligible for PEBB benefits under WAC 182-12-114. Newly eligible employees who do not return an enrollment form to their employing agency indicating their medical and dental choice within thirty-one days will be enrolled in a health plan as follows:

(a) Medical enrollment will be Uniform Medical Plan; ~~((and))~~

(b) Dental enrollment (if the employer group participates in PEBB dental) will be Uniform Dental Plan; and

(c) Dependents will not be enrolled.

(2) Employees who are newly eligible may enroll in optional insurance coverage (except for employees of employer groups that do not participate in life insurance or long-term disability insurance).

(a) To enroll in the amounts of optional life insurance available without health underwriting, employees must return a completed life insurance enrollment form to their employing agency no later than sixty days after becoming eligible for PEBB benefits.

(b) To enroll in optional long-term disability insurance without health underwriting, employees must return a completed long-term disability enrollment form to their employing agency no later than thirty-one days after becoming eligible for PEBB benefits.

(c) To enroll in long-term care insurance with limited health underwriting, employees must return a completed long-term care enrollment form to the contracted vendor no later than thirty-one days after becoming eligible for PEBB benefits.

(d) Employees may apply for optional life, long-term disability, and long-term care insurance at any time by providing evidence of insurability and receiving approval from the contracted vendor.

(3) Employees who are eligible to participate in the state's salary reduction plan (see WAC 182-12-116) will be automatically enrolled in the premium payment plan upon enrollment in medical so employee medical premiums are taken on a pretax basis. To opt out of the premium payment plan, new employees must complete the appropriate form and return it to their employing agency no later than thirty-one days after they become eligible for PEBB benefits.

(4) Employees who are eligible to participate in the state's salary reduction plan may enroll in the state's medical ~~((FSA or DCAP))~~ flexible spending arrangement (FSA) or

dependent care assistance program (DCAP) or both. To enroll in these optional PEBB benefits, employees must return the appropriate enrollment forms to their employing agency or PEBB designee no later than thirty-one days after becoming eligible for PEBB benefits.

(5) The employer contribution toward insurance coverage ends according to WAC 182-12-131. Employees who become newly eligible for the employer contribution enroll as described in subsections (1) and (2) of this section, with the following exceptions in which insurance coverage elections stay the same:

(a) When an employee transfers from one employing agency to another employing agency without a break in state service. This includes movement of employees between any entities described in WAC 182-12-111 and participating in PEBB benefits.

(b) When employees have a break in state service that does not interrupt their employer contribution toward PEBB insurance coverage.

(c) When employees continue insurance coverage by self-paying the full premium under WAC 182-12-133(1) or 182-12-142 and become newly eligible for the employer contribution before the end of the maximum number of months allowed for continuing PEBB health plan enrollment under those rules. Employees who are eligible to continue optional life or optional long-term disability under continuation coverage but discontinue that insurance coverage are subject to the insurance underwriting requirements if they apply for the insurance when they return to work or become eligible again for the employer contribution.

(6) When an employee's employment ends, participation in the state's salary reduction plan ends. If the employee is hired into a new position that is eligible for PEBB benefits in the same year, the employee may not resume participation in DCAP or medical FSA until the beginning of the next plan year, unless the time between employments is less than thirty days.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-08-198 When may a subscriber change health plans? Subscribers may change health plans at the following times:

(1) **During annual open enrollment:** Subscribers may change health plans during the annual open enrollment. The subscriber must submit the appropriate enrollment forms to change health plan no later than the end of the annual open enrollment. Enrollment in the new health plan will begin January 1st of the following year.

(2) **During a special open enrollment:** Subscribers may change health plans outside of the annual open enrollment if a special open enrollment event occurs. The change in enrollment must be allowable under Internal Revenue Code (IRC) and correspond to the event that creates the special open enrollment for either the subscriber or the subscriber's dependents or both. To make a health plan change, the subscriber must submit the appropriate enrollment forms (and a completed disenrollment form, if required) no later than sixty days after the event occurs. Employees submit the enrollment

forms to their employing agency. All other subscribers, including retirees, COBRA, and other self-pay subscribers, submit the enrollment forms to the PEBB program. Insurance coverage in the new health plan will begin the first day of the month following the event that created the special open enrollment; or in cases where the event occurs on the first day of the month, insurance coverage will begin on that date. If the special open enrollment is due to the birth, adoption, or assumption of legal obligation for total or partial support in anticipation of adoption of a child, insurance coverage will begin the month in which the event occurs. The following events create a special open enrollment:

(a) ~~((Subscriber acquires a new eligible dependent))~~ Subscriber's dependent becomes eligible under PEBB rules:

(i) Through marriage(;) or registering a domestic partnership with ((Washington)) Washington's secretary of state(;):

(ii) Through birth, adoption or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption(;):

(iii) Through legal custody or legal guardianship; or

(iv) When a child becomes eligible as an extended dependent;

~~(b) ((Subscriber's dependent child becomes eligible by fulfilling PEBB dependent eligibility criteria;~~

~~(c) Subscriber loses an eligible dependent or a) Subscriber's dependent no longer meets PEBB eligibility criteria(;~~

~~(d)) because:~~

~~(i) Subscriber has a change in marital status or Washington state registered domestic partnership status, including legal separation documented by a court order;~~

~~(ii) A child dependent turns age twenty-six;~~

~~(iii) A child dependent ceases to be eligible as an extended dependent or as a dependent with disabilities; or~~

~~(iv) A dependent dies;~~

~~((e)) (c) Subscriber or a dependent loses ((comprehensive) coverage under a group health ((eoverage)) plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);~~

~~((f)) (d) Subscriber or a dependent has a change in employment status that affects the subscriber's or a dependent's eligibility((- level of benefits, or cost of)) for group health coverage or the employer contribution toward insurance coverage;~~

~~((g)) (e) Subscriber or a dependent has a change in residence that affects health plan availability((- benefits, or cost of insurance coverage)). If the subscriber moves and the subscriber's current health plan is not available in the new location but the subscriber does not select a new health plan, the PEBB program may enroll the subscriber in the Uniform Medical Plan or Uniform Dental Plan;~~

~~((h)) (f) Subscriber receives a court order or medical support order requiring the subscriber, the subscriber's spouse, or the subscriber's Washington state registered domestic partner to provide insurance coverage for an eligible dependent (a former spouse or former registered domestic partner is not an eligible dependent);~~

~~((i)) (g) Subscriber or a dependent becomes eligible for a medical assistance program under the department of social~~

and health services, including medicaid or the children's health insurance program (CHIP), or the subscriber or a dependent loses eligibility ~~((in such))~~ a medical assistance program;

~~((j) A dependent dies;~~

~~((k)) (h) Seasonal employees whose off-season occurs during the annual open enrollment. They may select a new health plan upon their return to work;~~

~~((l)) (i) Subscriber or an eligible dependent becomes entitled to medicare, enrolls in or disenrolls from a medicare Part D plan;~~

~~((m)) (j) Subscriber experiences a disruption that could function as a reduction in benefits for the subscriber or the subscriber's dependent(s) due to a specific condition or ongoing course of treatment. A subscriber may not change their health plan if the subscriber's or an enrolled dependent's physician stops participation with the subscriber's health plan unless the PEBB program determines that a continuity of care issue exists. The PEBB program criteria used will include, but is not limited to, the following in determining if a continuity of care issue exists:~~

~~(i) Active cancer treatment; or~~

~~(ii) Recent transplant (within the last twelve months); or~~

~~(iii) Scheduled surgery within the next sixty days; or~~

~~(iv) Major surgery within the previous sixty days; or~~

~~(v) Third trimester of pregnancy; or~~

~~(vi) Language barrier.~~

If the employee is having premiums taken from payroll on a pretax basis, a plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-08-199 When may an employee enroll in or change ~~((their))~~ his or her election under the premium payment plan, medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP)? An eligible employee may enroll in or change his or her election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP) at the following times:

(1) When they are newly eligible under WAC 182-12-114, as described in WAC 182-08-197.

(2) **During annual open enrollment:** An eligible employee may enroll in or change their election under the state's premium payment plan, medical FSA or DCAP during the annual open enrollment. Employees must submit, in paper or on-line, the appropriate enrollment form to reenroll no later than the ~~((end))~~ last day of the annual open enrollment. The enrollment or new election will ~~((begin))~~ be effective January 1st of the following year.

(3) **During a special open enrollment:** Employees may enroll or change their election under the state's premium payment plan, medical FSA or DCAP outside of the annual open enrollment if a special open enrollment event occurs. The enrollment or change in enrollment must be allowable under Internal Revenue Code (IRC) and correspond to the event that creates the special open enrollment. To make a change or

enroll, the employee must submit the appropriate forms as instructed on the forms no later than sixty days after the event occurs. Enrollment will ~~((begin))~~ be effective the first day of the month following approval by the administrator.

For purposes of this section, an eligible dependent includes ~~((the employee's opposite sex spouse and))~~ any ~~((other))~~ person who qualifies as ~~((the employee's))~~ a dependent of the employee for tax purposes under IRC Section 152 ~~((of the IRC))~~ without regard to the income limitations of that section. It does not include a Washington state registered domestic partner unless the domestic partner otherwise qualifies as a dependent for tax purposes under IRC Section 152 ~~((of the IRC))~~.

The following ~~((changes are))~~ events ~~((that))~~ create a special open enrollment for purposes of an eligible employee making a change:

(a) ~~((Employee acquires a new eligible dependent;~~
~~((b))~~ Employee's dependent ~~((child))~~ becomes eligible ~~((by fulfilling))~~ under PEBB ~~((dependent eligibility criteria))~~ rules:

(i) Through marriage;

(ii) Through birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;

(iii) Through legal custody or legal guardianship; or

(iv) When a child becomes eligible as an extended eligible dependent;

~~((e))~~ Employee loses an eligible dependent or a) (b) Employee's dependent no longer meets PEBB eligibility criteria;

~~((d))~~ because:

(i) Employee has a change in marital status, including legal separation documented by a court order;

(ii) An eligible dependent child turns age twenty-six;

(iii) An eligible dependent ceases to be eligible as an extended dependent or as a dependent with disabilities; or

(iv) An eligible dependent dies;

~~((e))~~ (c) Employee or an eligible dependent loses coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(d) Employee or ~~((a))~~ an eligible dependent has a change in employment status that affects the employee's or a dependent's eligibility ~~((, level of benefits, or cost of))~~ for group health coverage or the employer contribution toward insurance coverage ~~((under a plan provided by the employee's employer or the dependent's employer));~~

~~((f))~~ Employee's or a dependent's residence changes that affects health plan availability, level of benefits, or cost of insurance coverage;

~~((g))~~ (e) Employee receives a court order or medical support order requiring the employee or the employee's spouse to provide insurance coverage for an eligible dependent;

~~((h))~~ (f) Employee or an eligible dependent becomes eligible for a medical assistance program under the department of social and health services, including medicaid or the children's health insurance program (CHIP), or the subscriber or dependent loses eligibility in such a medical assistance program;

~~((i))~~ (g) Seasonal employees whose off-season occurs during the annual open enrollment may enroll in the plan upon their return to work;

~~((j))~~ (h) Employee or an eligible dependent gains or loses eligibility for medicare ~~((or medicaid));~~

~~((k))~~ The employee or the employee's spouse experiences a change in the number of qualifying individuals as defined in IRC Section 21 (b)(1);

~~((l))~~ (i) In addition to (a) through ~~((k))~~ (h) of this section, the following are events that create a special open enrollment for purposes of an eligible employee making a change in his or her DCAP:

(i) Employees who change dependent care providers may make a change in their DCAP to reflect the cost of the new provider;

(ii) The employee or the employee's spouse experiences a change in the number of qualifying individuals as defined in IRC Section 21 (b)(1); or

(iii) If an employee's dependent care provider imposes a change in the cost of dependent care, the employee may make a change in the DCAP to reflect the new cost if the dependent care provider is not a relative as defined in Section 152 (a)(1) through (8), incorporating the rules of Section 152 (b)(1) and (2) of the IRC.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-109 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Administrator" means the administrator of the HCA or designee.

"Agency" means the health care authority.

"Benefits eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114(2) or (3)(a)(ii).

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Comprehensive employer sponsored medical" includes insurance coverage continued by the employee or their dependent under COBRA. It does not include an employer's retiree coverage, with the exception of a federal retiree plan.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13)(a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in PEBB medical insurance by a retiree or eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.

"Employer group" means those employee organizations representing state civil service employees, counties, municipalities, political subdivisions, tribal governments, school districts, and educational service districts participating in PEBB insurance coverage under contract as described in WAC 182-08-230.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

"Health plan" or "plan" means a medical or dental plan developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and includes the higher education personnel board and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability insurance, or property and casualty insurance administered as a PEBB benefit.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Life insurance" includes basic life insurance paid for by the employing agency, life insurance offered to employees on an optional basis, and retiree life insurance.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Open enrollment" means a time period when: Subscribers may apply to transfer their enrollment from one health plan to another; a dependent may be enrolled; a dependent may be removed from coverage; or an employee who previously waived medical may enroll in medical. Open enrollment is also the time when employees may enroll in or change their election under the DCAP, the medical FSA, or the premium payment plan. An "annual" open enrollment, designated by the administrator, is an open enrollment when all PEBB subscribers may make enrollment changes for the upcoming year. A "special" open enrollment is triggered by a

specific life event. For special open enrollment events as they relate to specific PEBB benefits, see WAC 182-08-198, 182-08-199, 182-12-128, 182-12-262.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The administrator has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverage or other employee benefit administered by the PEBB program within HCA.

"PEBB program" means the program within the HCA which administers insurance and other benefits for eligible employees of the state (as defined in WAC 182-12-114), eligible retired and disabled employees (as defined in WAC 182-12-171), eligible dependents (as defined in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

"Termination of the employment relationship" means that an employee resigns or an employee is terminated and the employing agency has no anticipation that the employee will be rehired.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means to interrupt an eligible employee's enrollment in a PEBB health plan because the employee is enrolled in other comprehensive group coverage or is on approved educational leave (see WAC 182-12-128 and 182-12-136).

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-111 Eligible entities and individuals.

The following entities and individuals shall be eligible for PEBB insurance coverage subject to the terms and conditions set forth below:

(1) State agencies. State agencies, as defined in WAC 182-12-109, are required to participate in all PEBB benefits. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(a) Employees of technical colleges previously enrolled in a benefits trust may end PEBB benefits by January 1, 1996, or the expiration of the current collective bargaining agreements, whichever is later. Employees electing to end PEBB benefits have a one-time reenrollment option after a five year wait. Employees of a bargaining unit may end PEBB benefit participation only as an entire bargaining unit. All administrative or managerial employees may end PEBB participation only as an entire unit.

(b) Community and technical colleges with employees enrolled in a benefits trust shall remit to the HCA a retiree remittance as specified in the omnibus appropriations act, for each full-time employee equivalent. The remittance may be prorated for employees receiving a prorated portion of benefits.

(2) Employer groups: Employer groups may participate in PEBB insurance coverages at the option of each employer group provided all of the following requirements are met:

(a) All eligible employees of the entity must transfer to PEBB insurance coverage as a unit with the following exceptions:

- Bargaining units may elect to participate separately from the whole group; and
- Nonrepresented employees may elect to participate separately from the whole group provided all nonrepresented employees join as a group.

(b) PEBB health plans must be the only employer sponsored health plans available to eligible employees.

(c) The employer group must submit to the HCA an application when it first applies, the contents of which will be specified by HCA. The application for employer groups, with the exception of school districts and educational service districts, is subject to review and approval by the HCA, and the decision to approve or deny the application shall be provided to the applying employer group by the HCA.

(d) Each employer group purchasing PEBB insurance coverage must sign a contract with the HCA. The employer group must abide by the eligibility, enrollment, and payment terms specified in the contract. Any subsequent changes to the contract must be submitted for approval in advance of the change.

(e) The employer group must maintain its PEBB insurance coverage participation at least one full year, and may end participation only at the end of a plan year.

(f) The employer group must give the HCA written notice of its intent to end PEBB insurance coverage participation at least sixty days before the effective date of termination. With the exception of retired and disabled employees of school districts or educational service districts, if the employer group ends PEBB insurance coverage, retired and

disabled employees who began participating after September 15, 1991, are not eligible for PEBB insurance coverage beyond the mandatory extension requirements specified in WAC 182-12-146.

(g) Employees eligible for PEBB participation include only those employees whose services are substantially all in the performance of essential governmental functions but not in the performance of commercial activities, whether or not those activities qualify as essential governmental functions. Employer groups shall determine eligibility in order to ensure PEBB's continued status as a governmental plan under Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended.

(3) School districts and educational service districts: In addition to subsection (2) of this section, the following applies to school districts and educational service districts:

(a) The HCA will collect an amount equal to the composite rate charged to state agencies plus an amount equal to the employee premium by health plan and family size as would be charged to state employees for each participating school district or educational service district.

~~(b) ((Each participating school district or educational service district must agree to collect an employee premium by health plan and family size that is not less than that paid by state employees.~~

~~(e))~~ The HCA may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.-030.

(4) Blind vendors means a "licensee" as defined in RCW 74.18.200: Vendors actively operating a business enterprise program facility in the state of Washington and deemed eligible by the department of services for the blind may voluntarily participate in PEBB insurance coverage.

(a) Vendors that do not enroll when first eligible may enroll only during the annual open enrollment period offered by the HCA or the first day of the month following loss of other insurance coverage.

(b) Department of services for the blind will notify eligible vendors of their eligibility in advance of the date that they are eligible to apply for enrollment in PEBB insurance coverage.

(c) The eligibility requirements for dependents of blind vendors shall be the same as the requirements for dependents of the state employees and retirees in WAC 182-12-260.

(5) Eligible nonemployees:

(a) Dislocated forest products workers enrolled in the employment and career orientation program pursuant to chapter 50.70 RCW shall be eligible for PEBB health plans while enrolled in that program.

(b) School board members or students eligible to participate under RCW 28A.400.350 may participate in PEBB insurance coverage as long as they remain eligible under that section.

(6) Individuals that are not eligible include:

(a) Adult family home providers as defined in RCW 70.128.010;

(b) Unpaid volunteers;

(c) Patients of state hospitals;

(d) Inmates;

(e) Employees of the Washington state convention and trade center as provided in RCW 41.05.110;

(f) Students of institutions of higher education as determined by their institutions; and

(g) Any others not expressly defined as employees under RCW 41.05.011.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-114 How do employees establish eligibility for PEBB benefits? Eligibility for an employee whose work circumstances are described by more than one of the eligibility categories in subsections (1) through (5) of this section shall be determined solely by the criteria of the category that most closely describes the employee's work circumstances.

Hours that are excluded in determining eligibility include standby hours and any temporary increases in work hours, of six months or less, caused by training or emergencies that have not been or are not anticipated to be part of the employee's regular work schedule or pattern. Employing agencies must request the PEBB program's approval to include temporary training or emergency hours in determining eligibility.

For how the employer contribution toward insurance coverage is maintained after eligibility is established under this section, see WAC 182-12-131.

(1) Employees are eligible for PEBB benefits as follows, except as provided in subsections (2) through (5) of this section:

(a) **Eligibility.** An employee is eligible if he or she works an average of at least eighty hours per month and works for at least eight hours in each month for more than six consecutive months.

(b) **Determining eligibility.**

(i) **Upon employment:** An employee is eligible from the date of employment if the employing agency anticipates the employee will work according to the criteria in (a) of this subsection.

(ii) **Upon revision of anticipated work pattern:** If an employing agency revises an employee's anticipated work hours such that the employee meets the eligibility criteria in (a) of this subsection, the employee becomes eligible when the revision is made.

(iii) **Based on work pattern:** An employee who is determined to be ineligible, but later meets the eligibility criteria in (a) of this subsection, becomes eligible the first of the month following the six-month averaging period.

(c) **Stacking of hours.** As long as the work is within one state agency, employees may "stack" or combine hours worked in more than one position or job to establish eligibility and maintain the employer contribution toward insurance coverage. Employees must notify their employing agency if they believe they are eligible through stacking. Stacking includes work situation in which:

(i) The employee works two or more positions or jobs at the same time (concurrent stacking);

(ii) The employee moves from one position or job to another (consecutive stacking); or

(iii) The employee combines hours from a seasonal position to hours from a nonseasonal position or job. An employee who establishes eligibility by stacking hours from a seasonal position or job with hours from a nonseasonal position or job shall maintain the employer contribution toward insurance coverage under WAC 182-12-131(1).

(d) **When PEBB benefits begin.** ~~((PEBB benefits))~~ Medical and dental insurance coverage and basic life and basic long-term disability insurance coverage begin on the first day of the month following the date an employee becomes eligible. If the employee becomes eligible on the first working day of a month, these PEBB benefits begin on that date.

(2) **Seasonal employees,** as defined in WAC 182-12-109, are eligible as follows:

(a) **Eligibility.** A seasonal employee is eligible if he or she works an average of at least eighty hours per month and works for at least eight hours in each month of the season. A season is any recurring, cyclical period of work at a specific time of year that lasts three to eleven months.

(b) **Determining eligibility.**

(i) **Upon employment:** A seasonal employee is eligible from the date of employment if the employing agency anticipates that he or she will work according to the criteria in (a) of this subsection.

(ii) **Upon revision of anticipated work pattern.** If an employing agency revises an employee's anticipated work hours such that the employee meets the eligibility criteria in (a) of this subsection, the employee becomes eligible when the revision is made.

(iii) **Based on work pattern.** An employee who is determined to be ineligible for benefits, but later works an average of at least eighty hours per month and works for at least eight hours in each month and works for more than six consecutive months, becomes eligible the first of the month following a six-month averaging period.

(c) **Stacking of hours.** As long as the work is within one state agency, employees may "stack" or combine hours worked in more than one position or job to establish eligibility and maintain the employer contribution toward insurance coverage. Employees must notify their employing agency if they believe they are eligible through stacking. Stacking includes work situations in which:

(i) The employee works two or more positions or jobs at the same time (concurrent stacking);

(ii) The employee moves from one position or job to another (consecutive stacking); or

(iii) The employee combines hours from a seasonal position or job to hours from a nonseasonal position or job. An employee who establishes eligibility by stacking hours from a seasonal position or job with hours from a nonseasonal position or job shall maintain the employer contribution toward insurance coverage under WAC 182-12-131(1).

(d) **When PEBB benefits begin.** ~~((PEBB benefits))~~ Medical and dental insurance coverage and basic life and basic long-term disability insurance coverage begin on the first day of the month following the day the employee becomes eligible. If the employee becomes eligible on the first working day of a month, these PEBB benefits begin on that date.

(3) **Faculty** are eligible as follows:

(a) **Determining eligibility.** "Half-time" means one-half of the full-time academic workload as determined by each institution, except that half-time for community and technical college faculty employees is governed by RCW 28B.50.489.

(i) **Upon employment:** Faculty who the employing agency anticipates will work half-time or more for the entire instructional year, or equivalent nine-month period, are eligible from the date of employment.

(ii) **For faculty hired on quarter/semester to quarter/semester basis:** Faculty who the employing agency anticipates will not work for the entire instructional year, or equivalent nine-month period, are eligible at the beginning of the second consecutive quarter or semester of employment in which he or she is anticipated to work, or has actually worked, half-time or more. Spring and fall ~~((may be))~~ are considered consecutive quarters/semesters when first establishing eligibility for faculty that work less than half-time during the summer quarter/semester.

(iii) **Upon revision of anticipated work pattern:** Faculty who receive additional workload after the beginning of the anticipated work period (quarter, semester, or instructional year), such that their workload meets the eligibility criteria of (a)(i) or (ii) of this subsection become eligible when the revision is made.

(b) **Stacking.** Faculty may establish eligibility and maintain the employer contribution toward insurance coverage by working as faculty for more than one institution of higher education. Faculty workloads may only be stacked with other faculty workloads to establish eligibility under this section or maintain eligibility under WAC 182-12-131(3). When a faculty works for more than one institution of higher education, the faculty must notify his or her employing agencies that he or she works at more than one institution and may be eligible through stacking.

(c) **When PEBB benefits begin.**

(i) ~~((PEBB benefits))~~ Medical and dental insurance coverage and basic life and basic long-term disability insurance coverage begin on the first day of the month following the day the faculty becomes eligible. If the faculty becomes eligible on the first working day of a month, these PEBB benefits begin on that date.

(ii) For faculty hired on a quarter/semester to quarter/semester basis under (a)(ii) of this subsection, ~~((PEBB benefits))~~ medical and dental insurance coverage and basic life and basic long-term disability insurance coverage begin the first day of the month following the beginning of the second consecutive quarter/semester of half-time or more employment. If the first day of the second consecutive quarter/semester is the first working day of the month, these PEBB benefits begin at the beginning of the second consecutive quarter/semester.

(4) **Elected and full-time appointed officials of the legislative and executive branches of state government** are eligible as follows:

(a) **Eligibility.** A legislator is eligible for PEBB benefits on the date his or her term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible on the date their

terms begin or the date they take the oath of office, whichever occurs first.

(b) **When PEBB benefits begin.** ~~((PEBB benefits))~~ Medical and dental insurance coverage and basic life and basic long-term disability insurance coverage for an eligible employee begin on the first day of the month following the day he or she becomes eligible. If the employee becomes eligible on the first working day of a month, these PEBB benefits begin on that date.

(5) **Justices and judges** are eligible as follows:

(a) **Eligibility.** A justice of the supreme court and judges of the court of appeals and the superior courts become eligible for PEBB benefits on the date they take the oath of office.

(b) **When PEBB benefits begin.** ~~((PEBB benefits))~~ Medical and dental insurance coverage and basic life and basic long-term disability insurance coverage for an eligible employee begin on the first day of the month following the day he or she becomes eligible. If the employee becomes eligible on the first working day of a month, these PEBB benefits begin on that date.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-123 Dual enrollment is prohibited. PEBB health plan coverage is limited to a single enrollment per individual.

(1) Effective January 1, 2002, individuals who have more than one source of eligibility for enrollment in PEBB health plan coverage (called "dual eligibility") are limited to one enrollment.

(2) An eligible employee may waive medical and enroll as a dependent on the coverage of his or her eligible spouse, eligible Washington state registered domestic partner, or eligible parent as stated in WAC 182-12-128.

(3) Children eligible for medical and dental under two subscribers may be enrolled as a dependent under the health plan of only one subscriber.

(4) An employee who is eligible for the employer contribution to PEBB benefits due to employment in more than one PEBB-participating employing agency may enroll only under one employing agency. The employee must choose to enroll in PEBB benefits under only one employing agency.

Exception: Faculty who stack to establish or maintain eligibility under WAC 182-12-114(3) with two or more state institutions of higher education will be enrolled under the employing agency responsible to pay the employer contribution according to WAC 182-08-200(2).

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-128 May an employee waive health plan enrollment? Employees must enroll in dental, life and long-term disability insurance (unless the employing agency does not participate in these PEBB insurance coverages). However, employees may waive PEBB medical if they have other comprehensive group medical coverage.

(1) Employees may waive enrollment in PEBB medical by submitting the appropriate enrollment form to their employing agency during the following times:

(a) **When the employee becomes eligible:** Employees may waive medical when they become eligible for PEBB benefits. Employees must indicate they are waiving medical on the appropriate enrollment form they submit to their employing agency no later than thirty-one days after the date they become eligible (see WAC 182-08-197). Medical will be waived as of the date the employee becomes eligible for PEBB benefits.

(b) **During the annual open enrollment:** Employees may waive medical during the annual open enrollment if they submit the appropriate enrollment form to their employing agency before the end of the annual open enrollment. Medical will be waived beginning January 1st of the following year.

(c) **During a special open enrollment:** Employees may waive medical during a special open enrollment as described in subsection (4) of this section.

(2) If an employee waives medical, the employee's eligible dependents may not be enrolled in medical ~~(with the exception of adult dependents who may enroll in a health plan if the employee has waived medical coverage)~~.

(3) Once medical is waived, enrollment is only allowed during the following times:

(a) During the annual open enrollment;

(b) During a special open enrollment created by an event that allows for enrollment outside of the annual open enrollment as described in subsection (4) of this section. In addition to the appropriate forms, the PEBB program may require the employee to provide evidence of eligibility and evidence of the event that creates a special open enrollment.

(4) **Special open enrollment:** Employees may waive enrollment in medical or enroll in medical if one of these special open enrollment events occur. The change in enrollment must correspond to the event that creates the special open enrollment. The following ~~(changes are)~~ events ~~(that)~~ create a special open enrollment:

(a) ~~(Employee acquires a new eligible dependent)~~ Employee's dependent becomes eligible under PEBB rules:

(i) Through marriage~~(s)~~ or registering a domestic partnership with Washington state~~(s)~~;

(ii) Through birth, adoption or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption~~(s)~~;

(iii) Through legal custody or legal guardianship; or

(iv) When a child becomes eligible as an extended dependent;

~~(b) (Employee's dependent child becomes eligible by fulfilling PEBB dependent eligibility criteria;~~

~~(c) Employee loses an eligible dependent or a) Employee's dependent no longer meets PEBB eligibility criteria~~(s)~~ because:~~

~~((d)) (i) Employee has a change in marital status or Washington state registered domestic partnership status, including legal separation documented by a court order;~~

~~(ii) A child dependent turns age twenty-six;~~

~~(iii) A child dependent ceases to be eligible as an extended dependent or as a dependent with disabilities; or~~

~~(iv) A dependent dies;~~

~~((e)) (c) Employee or a dependent loses ~~(comprehensive)~~ coverage under a group health plan or through health~~

insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

~~((f)) (d) Employee or a dependent has a change in employment status that affects the employee's or a dependent's eligibility~~(, level of benefits, or cost of)~~ for group health coverage or the employer contribution toward insurance coverage;~~

~~((g)) (e) Employee or a dependent has a change in ~~(place of)~~ residence that affects ~~(the employee's or a dependent's eligibility, level of benefits, or cost of insurance coverage)~~ health plan availability;~~

~~((h)) (f) Employee receives a court order or medical support ~~(enforcement)~~ order requiring the employee, spouse, or ~~(qualified)~~ Washington state registered domestic partner to ~~(enroll)~~ provide insurance coverage for an eligible dependent (a former spouse or former registered domestic partner is not an eligible dependent);~~

~~((i)) (g) Employee or dependent becomes eligible for a medical assistance program under the department of social and health services, including medicaid or the children's health insurance program (CHIP), or the employee or dependent loses eligibility in a medical assistance program.~~

To waive or enroll during a special open enrollment, the employee must submit the appropriate forms to their employing agency no later than sixty days after the event that creates the special open enrollment.

Enrollment in insurance coverage will begin the first of the month following the event that created the special open enrollment; or in cases where the event occurs on the first day of a month, enrollment will begin on that date. If the special open enrollment is due to the birth or adoption of a child, insurance coverage will begin the first of the month in which the event occurs.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-131 How do eligible employees maintain the employer contribution toward insurance coverage? The employer contribution toward insurance coverage begins on the day that PEBB benefits begin under WAC 182-12-114. This section describes under what circumstances an employee maintains eligibility for the employer contribution toward PEBB benefits.

(1) **Maintaining the employer contribution.** Except as described in subsections (2), (3) and (4) of this section, an employee who has established eligibility for benefits under WAC 182-12-114 is eligible for the employer contribution each month in which he or she is in pay status eight or more hours per month.

(2) **Maintaining the employer contribution - benefits-eligible seasonal employees.**

(a) A benefits-eligible seasonal employee (eligible under WAC 182-12-114(2)) who works a season of less than nine months is eligible for the employer contribution in any month of his or her season in which he or she is in pay status eight or more hours during that month. The employer contribution toward PEBB benefits for seasonal employees returning after their off season begins on the first day of the first month of the season in which they are in pay status eight hours or more.

(b) A benefits-eligible seasonal employee (eligible under WAC 182-12-114(2)) who works a season of nine months or more is eligible for the employer contribution:

(i) In any month of his or her season in which he or she is in pay status eight or more hours during that month; and

(ii) Through the off season following each season worked.

(3) Maintaining the employer contribution - eligible faculty.

(a) Benefits-eligible faculty anticipated to work the entire instructional year or equivalent nine-month period (eligible under WAC 182-12-114 (3)(a)(i)) are eligible for the employer contribution each month of the instructional year, except as described in subsection (7) of this section.

(b) Benefits-eligible faculty who are hired on a quarter/semester to quarter/semester basis (eligible under WAC 182-12-114 (3)(a)(ii)) are eligible for the employer contribution each quarter or semester in which the employee works half-time or more.

(c) Summer or off-quarter/semester coverage: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who work an average of half-time or more throughout the entire instructional year or equivalent nine-month period and work each quarter/semester of the instructional year or equivalent nine-month period are eligible for the employer contribution toward summer or off-quarter/semester insurance coverage.

Exception:

Eligibility for the employer contribution toward summer or off-quarter/semester insurance coverage ends on the end date specified in an employing agency's termination notice or an employee's resignation letter, whichever is earlier, if the employing agency has no anticipation that the employee will be returning as faculty at any institution of higher education where the employee has employment.

(d) Two-year averaging: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who worked an average of half-time or more in each of the two preceding academic years are potentially eligible to receive uninterrupted employer contribution to PEBB benefits. "Academic year" means summer, fall, winter, and spring quarters or summer, fall, and spring semesters and begins with summer quarter/semester. In order to be eligible for the employer contribution through two-year averaging, the faculty must provide written notification of his or her potential eligibility to his or her employing agency or agencies within the deadlines established by the employing agency or agencies. Faculty continue to receive uninterrupted employer contribution for each academic year in which they:

(i) Are employed on a quarter/semester to quarter/semester basis and work at least two quarters or two semesters; and

(ii) Have an average workload of half-time or more for three quarters or two semesters.

Eligibility for the employer contribution under two-year averaging ceases immediately if the eligibility criteria is not met or if the eligibility criteria becomes impossible to meet.

(e) Faculty with gaps of eligibility for the employer contribution: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who lose eligibility for the employer contribution will regain it if they return to a faculty position where it is anticipated that they will work half-time or more for the

quarter/semester no later than the twelfth month after the month in which they lost eligibility for the employer contribution. The employer contribution begins on the first day of the month in which the quarter/semester begins.

(4) Maintaining the employer contribution - employees on leave and under the special circumstances listed below.

(a) Employees who are on approved leave under the federal Family and Medical Leave Act (FMLA) continue to receive the employer contribution as long as they are approved under the act.

(b) Unless otherwise indicated in this section, employees in the following circumstances receive the employer contribution only for the months they are in pay status eight hours or more:

(i) Employees on authorized leave without pay;

(ii) Employees on approved educational leave;

(iii) Employees receiving time-loss benefits under workers' compensation;

(iv) Employees called to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA); or

(v) Employees applying for disability retirement.

(5) Maintaining the employer contribution - employees who move from an eligible to an otherwise ineligible position due to a layoff maintain the employer contribution toward insurance coverage under the criteria in WAC 182-12-129.

(6) Employees who are in pay status less than eight hours in a month. Unless otherwise indicated in this rule, when there is a month in which an employee is not in pay status for at least eight hours, the employee:

(a) Loses eligibility for the employer contribution for that month; and

(b) Must reestablish eligibility for PEBB benefits under WAC 182-12-114 in order to be eligible for the employer contribution again.

(7) The employer contribution to PEBB insurance coverage ends in any one of these circumstances for all employees:

(a) When the employee fails to maintain eligibility for the employer contribution as indicated in the criteria in subsection (1) through (6) of this section.

(b) When the employment relationship is terminated. As long as the employing agency has no anticipation that the employee will be rehired, the employment relationship is terminated:

(i) On the date specified in an employee's letter of resignation; or

(ii) On the date specified in any contract or hire letter or on the effective date of an employer-initiated termination notice.

(c) When the employee moves to a position that is not anticipated to be eligible for benefits under WAC 182-12-114, not including changes in position due to a layoff.

The employer contribution toward PEBB medical, dental and life insurance for an employee, spouse, Washington state registered domestic partner, or child ceases at 12:00 midnight, the last day of the month in which the employee is eligible for the employer contribution under this rule.

(8) Options for continuation coverage by self-paying.

During temporary or permanent loss of the employer contribution toward insurance coverage, employees have options for providing continuation coverage for themselves and their dependents by self-paying the full premium set by the HCA. These options are available according to WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, 182-12-148, and 182-12-270.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-133 What options for continuation coverage are available to employees on certain types of leave or whose work ends due to a layoff? Employees who have established eligibility for PEBB benefits under WAC 182-12-114 have options for providing continuation coverage for themselves and their dependents by self-paying the full premium set by the HCA during temporary or permanent loss of the employer contribution toward insurance coverage.

(1) When an employee is no longer eligible for the employer contribution toward PEBB benefits due to an event described in (a) through (f) of this subsection, insurance coverage may be continued by self-paying the full premium set by the HCA, with no contribution from the employer. Employees may self-pay for a maximum of twenty-nine months. The employee must pay the premium amounts ~~((associated with))~~ for insurance coverage as premiums become due. If premiums are more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid. Employees may continue any combination of medical, dental and life insurance; however, only employees on approved educational leave or called in to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA) may continue long-term disability insurance. Employees in the following circumstances qualify to continue coverage under this subsection:

- (a) The employee is on authorized leave without pay;
- (b) The employee is on approved educational leave;
- (c) The employee is receiving time-loss benefits under workers' compensation;
- (d) The employee is called to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA);
- (e) The employee's employment ends due to a layoff as defined in WAC 182-12-109; or
- (f) The employee is applying for disability retirement.

(2) The number of months that an employee self-pays the premium while eligible under subsection (1) of this section will count toward the total months of continuation coverage allowed under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). An employee who is no longer eligible for continuation coverage as described in subsection (1) of this section but who has not used the maximum number of months allowed under COBRA may continue medical and dental for the remaining difference in months by self-paying the premium under COBRA as described in WAC 182-12-146.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-141 If ~~((f))~~ an employee reverts from an eligible position to another position, what happens to ~~((my))~~ his or her insurance coverage? (1) If ~~((you have reverted))~~ an employee reverts for reasons other than a layoff and ~~((are))~~ is not eligible for the employer contribution toward insurance coverage under this chapter, ~~((you))~~ he or she may continue PEBB insurance coverage by self-paying the full premium set by the HCA for up to eighteen months under the same terms as an employee who is granted leave without pay under WAC 182-12-133(1).

(2) If ~~((you are))~~ an employee is reverted due to a layoff~~((=~~

~~((a) You)),~~ the employee may be eligible for the employer contribution toward insurance coverage under the criteria of WAC 182-12-129~~((= or~~

~~((b) You)).~~ If determined not to be eligible under WAC 182-12-129, the employee may continue PEBB insurance coverage by self-paying the full premium set by the HCA under WAC 182-12-133.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-142 What options for continuation coverage are available to faculty and seasonal employees who are between periods of eligibility? (1) **Faculty** may continue any combination of medical, dental and life insurance coverage by self-paying the full premium set by the HCA, with no contribution from the employer, for a maximum of twelve months between periods of eligibility. The employee must pay the premium amounts associated with insurance coverage as premiums become due. If premiums are more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid.

(2) **Benefits-eligible seasonal employees** may continue any combination of medical, dental, and life insurance coverage by self-paying the full premium set by the HCA, with no contribution from the employer, ~~((during their off season(s)))~~ for a maximum of twelve months between periods of eligibility. The employee must pay the premium amounts associated with insurance coverage as premiums become due. If premiums are more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid.

(3) **COBRA.** An employee who is no longer eligible for continuation coverage as described in subsections (1) and (2) of this section, but who has not used the maximum number of months allowed under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), may continue medical and dental for the remaining difference in months by self-paying the full premium set by the HCA under COBRA as described in WAC 182-12-146. The number of months that a faculty or seasonal employee self-pays premiums under the criteria in subsection (1) or (2) of this section will count toward the total months of continuation coverage allowed under COBRA.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-171 When are retiring employees eligible to enroll in retiree insurance? (1) Procedural requirements. Retiring employees must meet these procedural requirements, as well as have substantive eligibility under subsection (2) or (3) of this section.

(a) The employee must submit the appropriate forms to enroll or defer insurance coverage within sixty days after the employee's employer paid or COBRA coverage ends. The effective date of health plan enrollment will be the first day of the month following the loss of other coverage.

Exception: The effective dates of health plan enrollment for retirees who defer enrollment in a PEBB health plan at or after retirement are identified in WAC 182-12-200 and 182-12-205.

Employees who do not enroll in a PEBB health plan at retirement are only eligible to enroll at a later date if they have deferred enrollment as identified in WAC 182-12-200 or 182-12-205 and maintained comprehensive employer sponsored medical as defined in WAC 182-12-109.

(b) The employee and enrolled dependents who are entitled to medicare must enroll and maintain enrollment in both medicare parts A and B if the employee retired after July 1, 1991. If the employee or an enrolled dependent becomes entitled to medicare after enrollment in PEBB retiree insurance, he or she must enroll and maintain enrollment in medicare.

(2) **Eligibility requirements.** Eligible employees (as defined in WAC (~~(182-12-115)~~) 182-12-114 and 182-12-131) who end public employment after becoming vested in a Washington state-sponsored retirement plan (as defined in subsection (4) of this section) are eligible to continue PEBB insurance coverage as a retiree if they meet procedural and eligibility requirements. To be eligible to continue PEBB insurance coverage as a retiree, the employee must be eligible to retire under a Washington state-sponsored retirement plan when the employee's employer paid or COBRA coverage ends.

Employees who do not meet their Washington state-sponsored retirement plan's age requirements when their employer paid or COBRA coverage ends, but who meet the age requirement within sixty days of coverage ending, may request that their eligibility be reviewed by the PEBB appeals committee to determine eligibility (see WAC 182-16-032). Employees must meet other retiree insurance election procedural requirements.

- Employees must immediately begin to receive a monthly retirement plan payment, with exceptions described below.
- Employees who receive a lump-sum payment instead of a monthly retirement plan payment are only eligible if this is required by department of retirement systems because their monthly retirement plan payment is below the minimum payment that can be paid.
- Employees who are members of a Plan 3 retirement, also called separated employees (defined in RCW 41.05.011 (13)), are eligible if they meet their retirement plan's age requirement and length of service when PEBB employee

insurance coverage ends. They do not have to receive a retirement plan payment.

- Employees who are members of a Washington higher education retirement plan are eligible if they immediately begin to receive a monthly retirement plan payment, or meet their plan's age requirement, or are at least age fifty-five with ten years of state service.

- Employees who are permanently and totally disabled are eligible if they start receiving or defer a monthly disability retirement plan payment.

- Employees not retiring under a Washington state-sponsored retirement plan must meet the same age and years of service had the person been employed as a member of either public employees retirement system Plan 1 or Plan 2 for the same period of employment.

- Employees who retire from a local government or tribal government that participates in PEBB insurance coverage for their employees are eligible to continue PEBB insurance coverage as retirees if the employees meet the procedural and eligibility requirements under this section.

(a) **Local government employees.** If the local government ends participation in PEBB insurance coverage, employees who enrolled after September 15, 1991, are no longer eligible for PEBB retiree insurance. These employees may continue PEBB health plan enrollment under COBRA (see WAC 182-12-146).

(b) **Tribal government employees.** If a tribal government ends participation in PEBB insurance coverage, its employees are no longer eligible for PEBB retiree insurance. These employees may continue PEBB health plan enrollment under COBRA (see WAC 182-12-146).

(c) **Washington state K-12 school district and educational service district employees for districts that do not participate in PEBB benefits.** Employees of Washington state K-12 school districts and educational service districts who separate from employment after becoming vested in a Washington state-sponsored retirement system are eligible to enroll in PEBB health plans when retired or permanently and totally disabled.

Except for employees who are members of a retirement Plan 3, employees who separate on or after October 1, 1993, must immediately begin to receive a monthly retirement plan payment from a Washington state-sponsored retirement system. Employees who receive a lump-sum payment instead of a monthly retirement plan payment are only eligible if department of retirement systems requires this because their monthly retirement plan payment is below the minimum payment that can be paid or they enrolled before 1995.

Employees who are members of a Plan 3 retirement, also called separated employees (defined in RCW 41.05.011(13)), are eligible if they meet their retirement plan's age requirement and length of service when employer paid or COBRA coverage ends.

Employees who separate from employment due to total and permanent disability who are eligible for a deferred retirement allowance under a Washington state-sponsored retirement system (as defined in chapter 41.32, 41.35 or 41.40 RCW) are eligible if they enrolled before 1995 or within sixty days following retirement.

Employees who retired as of September 30, 1993, and began receiving a retirement allowance from a state-sponsored retirement system (as defined in chapter 41.32, 41.35 or 41.40 RCW) are eligible if they enrolled in a PEBB health plan not later than the HCA's annual open enrollment period for the year beginning January 1, 1995.

(3) **Elected and full-time appointed officials of the legislative and executive branches.** Employees who are elected and full-time appointed state officials (as defined under WAC 182-12-114(4)) who voluntarily or involuntarily leave public office are eligible to continue PEBB insurance coverage as a retiree if they meet procedural and eligibility requirements. They do not have to receive a retirement plan payment from a state-sponsored retirement system.

(4) **Washington state-sponsored retirement systems include:**

- Higher education retirement plans;
- Law enforcement officers' and firefighters' retirement system;
- Public employees' retirement system;
- Public safety employees' retirement system;
- School employees' retirement system;
- State judges/judicial retirement system;
- Teacher's retirement system; and
- State patrol retirement system.

The two federal retirement systems, Civil Service Retirement System and Federal Employees' Retirement System, are considered a Washington state-sponsored retirement system for Washington State University Extension employees covered under the PEBB insurance coverage at the time of retirement or disability.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-205 May a retiree defer enrollment in a PEBB health plan at or after retirement? Except as stated in subsection (1)(c) of this section (~~and for adult dependents as defined in WAC 182-12-260(3)(d)~~), if retirees defer enrollment in a PEBB health plan, they also defer enrollment for all eligible dependents. Retirees may not defer their retiree term life insurance, even if they have other life insurance.

(1) Retirees may defer enrollment in a PEBB health plan at or after retirement if continuously enrolled in other comprehensive employer sponsored medical as identified below:

(a) Beginning January 1, 2001, retirees may defer enrollment if they are enrolled in comprehensive employer-sponsored medical as an employee or the dependent of an employee.

(b) Beginning January 1, 2001, retirees may defer enrollment if they are enrolled in medical as a retiree or the dependent of a retiree enrolled in a federal retiree plan.

(c) Beginning January 1, 2006, retirees may defer enrollment if they are enrolled in medicare Parts A and B and a medicaid program that provides creditable coverage as defined in this chapter. The retiree's dependents may continue their PEBB health plan enrollment if they meet PEBB eligibility criteria and are not eligible for creditable coverage under a medicaid program.

(2) To defer health plan enrollment, the retiree must submit the appropriate forms to the PEBB program requesting to defer. The PEBB program must receive the form before health plan enrollment is deferred or no later than sixty days after the date the retiree becomes eligible to apply for PEBB retiree insurance coverage.

(3) Retirees who defer may enroll in a PEBB health plan as follows:

(a) Retirees who defer while enrolled in comprehensive employer-sponsored medical may enroll in a PEBB health plan by submitting the appropriate forms and evidence of continuous enrollment in comprehensive employer-sponsored medical to the PEBB program:

(i) During annual open enrollment. (PEBB health plan will begin January 1st after the annual open enrollment.); or

(ii) No later than sixty days after their comprehensive employer-sponsored medical ends. (PEBB health plan will begin the first day of the month after the comprehensive employer-sponsored medical ends.)

(b) Retirees who defer enrollment while enrolled as a retiree or dependent of a retiree in a federal retiree medical plan will have a one-time opportunity to enroll in a PEBB health plan by submitting the appropriate forms and evidence of continuous enrollment in a federal retiree medical plan to the PEBB program:

(i) During annual open enrollment. (PEBB health plan will begin January 1st after the annual open enrollment.); or

(ii) No later than sixty days after the federal retiree medical ends. (Enrollment in the PEBB health plan will begin the first day of the month after the federal retiree medical ends.)

(c) Retirees who defer enrollment while enrolled in medicare Parts A and B and medicaid may enroll in a PEBB health plan by submitting the appropriate forms and evidence of continuous enrollment in creditable coverage to the PEBB program:

(i) During annual open enrollment. (Enrollment in the PEBB health plan will begin January 1st after the annual open enrollment.); or

(ii) No later than sixty days after their medicaid coverage ends (Enrollment in the PEBB health plan will begin the first day of the month after the medicaid coverage ends.); or

(iii) No later than the end of the calendar year when their medicaid coverage ends if the retiree was also determined eligible under 42 USC § 1395w-114 and subsequently enrolled in a medicare Part D plan. (Enrollment in the PEBB health plan will begin January 1st following the end of the calendar year when the medicaid coverage ends.)

(d) Retirees who defer enrollment may enroll in a PEBB health plan if the retiree receives formal notice that the department of social and health services has determined it is more cost-effective to enroll the retiree or the retiree's eligible dependent(s) in PEBB medical than a medical assistance program.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-250 Insurance coverage eligibility for survivors of emergency service personnel killed in the line of duty. Surviving spouses, Washington state registered

domestic partners, and dependent children of emergency service personnel who are killed in the line of duty are eligible to enroll in health plans administered by the PEBB program within HCA.

(1) This section applies to the surviving spouse, the surviving Washington state registered domestic partner, and dependent children of emergency service personnel "killed in the line of duty" as determined by the Washington state department of labor and industries.

(2) "Emergency service personnel" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010.

(3) "Surviving spouse, Washington state registered domestic partner, and dependent children" means:

(a) A lawful spouse;

(b) An ex-spouse as defined in RCW 41.26.162;

(c) A Washington state registered domestic partner as defined in RCW 26.60.020; and

(d) Children. The term "children" includes ~~((unmarried))~~ children of the emergency service worker ~~((who are under the))~~ up to age ~~((of twenty-five))~~ twenty-six. Children with disabilities as defined in RCW 41.26.030(7) are eligible at any age. "Children" is defined as:

(i) Biological children (including the emergency service worker's posthumous children);

(ii) Stepchildren or children of a Washington state registered domestic partner; and

(iii) Legally adopted children.

(4) Surviving spouses, Washington state registered domestic partners, and children who are entitled to medicare must enroll in both parts A and B of medicare.

(5) The survivor (or agent acting on their behalf) must submit the appropriate forms (to either enroll or defer enrollment in a PEBB health plan) to PEBB program no later than one hundred eighty days after the latter of:

(a) The death of the emergency service worker;

(b) The date on the letter from the department of retirement systems or the board for volunteer firefighters and reserve officers that informs the survivor that he or she is determined to be an eligible survivor;

(c) The last day the surviving spouse, Washington state registered domestic partner, or child was covered under any health plan through the emergency service worker's employer; or

(d) The last day the surviving spouse, Washington state registered domestic partner, or child was covered under the Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage from the emergency service worker's employer.

(6) Survivors who do not choose to defer enrollment in a PEBB health plan may choose among the following options for when their enrollment in a PEBB health plan will begin:

(a) June 1, 2006, for survivors whose appropriate forms are received by the PEBB program no later than September 1, 2006;

(b) The first of the month that is not earlier than sixty days before the date that the PEBB program receives the appropriate forms (for example, if the PEBB program

receives the appropriate forms on August 29, the survivor may request health plan enrollment to begin on July 1); or

(c) The first of the month after the date that the PEBB program receives the appropriate forms.

For surviving spouses, Washington state registered domestic partners, and children who enroll, monthly health plan premiums must be paid by the survivor except as provided in RCW 41.26.510(5) and 43.43.285 (2)(b). ~~((For children age twenty through age twenty-four who enroll and are not students under the age of twenty-four attending high school or registered at an accredited secondary school, college, university, vocational school, or school of nursing: The adult dependent premium must be paid by the survivor except as provided in RCW 41.26.510(5) and 43.43.285 (2)(b).))~~

(7) Survivors must choose one of the following two options to maintain eligibility for PEBB insurance coverage:

(a) Enroll in a PEBB health plan:

(i) Enroll in medical; or

(ii) Enroll in medical and dental.

(iii) Survivors enrolling in dental must stay enrolled in dental for at least two years before dental can be dropped.

(iv) Dental only is not an option.

(b) Defer enrollment:

(i) Survivors may defer enrollment in a PEBB health plan if enrolled in comprehensive employer sponsored medical.

(ii) Survivors may enroll in a PEBB health plan when they lose comprehensive employer sponsored medical. Survivors will need to provide evidence that they were continuously enrolled in comprehensive employer sponsored medical when applying for a PEBB health plan, and apply within sixty days after the date their other coverage ended.

(iii) PEBB health plan enrollment and premiums will begin the first day of the month following the day that the other coverage ended for eligible spouses and children who enroll.

(8) Survivors may change their health plan during annual open enrollment. In addition to annual open enrollment, survivors may change health plans as described in WAC 182-08-198.

(9) Survivors may not add new dependents acquired through birth, adoption, establishment of an extended dependent, marriage, or establishment of a qualified domestic partnership.

(10) Survivors will lose their right to enroll in a PEBB health plan if they:

(a) Do not apply to enroll or defer PEBB health plan enrollment within the timelines stated in subsection (5) of this section; or

(b) Do not maintain continuous enrollment in comprehensive employer sponsored medical through an employer during the deferral period, as provided in subsection (7)(b)(i) of this section.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-260 Who are eligible dependents? To be enrolled in a health plan, a dependent must be eligible

under this section and the subscriber must comply with enrollment procedures outlined in WAC 182-12-262.

The PEBB program verifies the eligibility of all dependents (~~periodically~~) and reserves the right to request documents from subscribers that provide evidence of a dependent's eligibility. The PEBB program will remove a subscriber's enrolled dependents from health plan enrollment if the PEBB program is unable to verify a dependent's eligibility within a specified time.

The subscriber or dependent must notify the PEBB program, in writing, no later than sixty days after the date he or she is no longer eligible under this section. See WAC 182-12-262 for the consequences of not removing an ineligible dependent from coverage.

The following are eligible as dependents under the PEBB eligibility rules:

(1) Lawful spouse. Former spouses are not eligible dependents upon finalization of a divorce or annulment, even if a court order requires the subscriber to provide health insurance for the former spouse.

(2) Effective January 1, 2010, Washington state registered domestic partners, as defined in RCW 26.60.020(1). Former Washington state registered domestic partners are not eligible dependents upon dissolution or termination of a partnership, even if a court order requires the subscriber to provide health insurance for the former partner.

(3) Children. Children are defined as the subscriber's biological children, stepchildren, legally adopted children, children for whom the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of the child, children of the subscriber's Washington state registered domestic partner, or children specified in a court order or divorce decree. In addition, children include extended dependents in the legal custody or legal guardianship of the subscriber, the subscriber's spouse, or subscriber's Washington state registered domestic partner. The legal responsibility is demonstrated by a valid court order and the child's official residence with the custodian or guardian. "Children" does not include foster children for whom support payments are made to the subscriber through the state department of social and health services foster care program.

Eligible children include:

(a) (~~Unmarried~~) Children (~~through~~) up to age (~~nineteen~~) twenty-six.

(b) (~~Married children through age nineteen who qualify as dependents of the subscriber under the Internal Revenue Code.~~)

(c) ~~Students: Unmarried children age twenty through age twenty-three who are attending high school or are registered students at an accredited secondary school, college, university, vocational school, or school of nursing. A married child is eligible as a student if the child is a dependent of the subscriber under the Internal Revenue Code.~~

(i) ~~A child is eligible as a student or can maintain eligibility as a student when not registered for courses through the summer or off quarter/semester as long as the child meets all other eligibility requirements and is in any one of the following circumstances:~~

~~• The child attended the three consecutive quarters or two consecutive semesters before the off quarter/semester.~~

~~• The child recently graduated. Graduation is defined as the successful completion of studies to earn a degree or certificate, not the date of the graduation ceremony. The child is eligible for the three month period following graduation.~~

(ii) ~~For student dependents who are not eligible for the summer or off quarter/semester according to (c)(i) of this subsection, student eligibility begins the first day of the month of the quarter or semester for which the child is registered, and eligibility ends the last day of the month in which the student is registered or in which the quarter or semester ends, whichever is first.~~

~~(Exception: If a student becomes seriously ill or injured and requires a medically necessary leave of absence from attending school, his or her coverage may continue if qualified under and in accordance with the federal Michelle's Law (Public Law 110-381).~~

(d) ~~Adult dependents: Unmarried children age twenty through age twenty-four.~~

~~Subscriber must pay the adult dependent premium for adult dependents whom the subscriber has enrolled.~~

~~Adult dependents must enroll in the same health plan as the subscriber.~~

~~(Exception: The adult dependent may enroll in a different health plan than the subscriber if the dependent does not reside within the subscriber's plan service area or the subscriber has waived or deferred medical.~~

(e) ~~Effective January 1, 2011, children of any age with disabilities, (~~developmental disabilities~~), mental illness, or (~~mental retardation~~) intellectual or other developmental disabilities who are incapable of self-support, provided such condition occurs before age (~~twenty or during the time the dependent was eligible as a student under (c) of this subsection~~) twenty-six.~~

(i) ~~The subscriber must provide evidence (~~that such~~) of the disability and evidence that the condition occurred (~~as stated below~~) before age twenty-six:~~

~~((i) For a child enrolled in PEBB insurance coverage, the subscriber must provide evidence of the disability within sixty days of the child's attainment of age twenty.~~

~~(ii) For a child enrolled in PEBB insurance coverage as a student under (c) of this subsection, the subscriber must provide evidence of the disability within sixty days after the student is no longer eligible under (c) of this subsection.~~

~~(iii) For a child, age twenty or older, who is a new dependent or for a child, age twenty or older, who is a dependent of a newly eligible subscriber, the child may be enrolled as a dependent child with disabilities if the subscriber provides evidence that the condition occurred before the child reached age twenty or evidence that when the condition occurred the child would have satisfied PEBB eligibility for student coverage under (c) of this subsection had the subscriber been eligible for PEBB benefits at the time.)~~

(ii) ~~The subscriber must notify the PEBB program, in writing, no later than sixty days after the date that a child age twenty or older no longer qualifies under this subsection.~~

~~For example, children who become self-supporting are not eligible under this rule as of the last day of the month in which they become capable of self-support. (~~The child may be eligible to continue enrollment as an adult dependent, as~~~~

per (d) of this subsection, or in a PEBB health plan under provisions of WAC 182-12-270.)

(iii) Children age (~~twenty~~) twenty-six and older who become capable of self-support do not regain eligibility under ~~((e))~~ (b) of this subsection if they later become incapable of self-support.

(iv) The PEBB program will certify the eligibility of children with disabilities periodically.

(4) Parents.

(a) Parents covered under PEBB medical before July 1, 1990, may continue enrollment on a self-pay basis as long as:

(i) The parent maintains continuous enrollment in PEBB medical;

(ii) The parent qualifies under the Internal Revenue Code as a dependent of the subscriber;

(iii) The subscriber continues enrollment in PEBB insurance coverage; and

(iv) The parent is not covered by any other group medical plan.

(b) Parents eligible under this subsection may be enrolled with a different health plan than that selected by the subscriber. Parents may not add additional dependents to their insurance coverage.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-12-262 When may subscribers enroll or remove eligible dependents? (1) Enrolling dependents in health plan coverage. Subscribers may enroll eligible dependents at the following times:

(a) **When the subscriber becomes eligible** and enrolls in PEBB insurance coverage. If enrolled, the dependent's effective date will be the same as the subscriber's effective date. Except as provided in WAC 182-12-205 (1)(c), a dependent must be enrolled in the same health plan coverage as the subscriber, and the subscriber must be enrolled to enroll his or her dependent.

(Exceptions:

• Adult dependents may enroll in a health plan if the employee has waived medical coverage or the retiree has deferred enrollment in PEBB retiree insurance in accordance with PEBB rule;

OR

• Eligible dependents of a retiree may enroll in a health plan if the retiree deferred PEBB retiree insurance coverage due to the retiree's enrollment in medicaid and creditable medicaid under WAC 182-12-205 ~~(+)(e))~~

(b) **During the annual open enrollment.** PEBB health plan coverage begins January 1st of the following year.

(c) **During special open enrollment.** Subscribers may enroll dependents when the dependent becomes eligible or during another special open enrollment as described in subsections (3) and (4) of this section.

(2) **Removing dependents from a subscriber's health plan coverage.**

(a) **Subscribers are required to remove dependents** within sixty days of the date the dependent no longer meets the eligibility criteria in WAC 182-12-250 or 182-12-260. The PEBB program will remove a subscriber's enrolled dependent the last day of the month in which the dependent

ceases to meet the eligibility criteria. Consequences for not submitting notice within sixty days of any dependent ceasing to be eligible may include, but are not limited to:

(i) The dependent may lose eligibility to continue health plan coverage under one of the continuation coverage options described in WAC 182-12-270;

(ii) The subscriber may be billed for claims paid by the health plan for services that were rendered after the dependent lost eligibility;

(iii) The subscriber may not be able to recover subscriber-paid insurance premiums ~~((that included))~~ for dependents that lost their eligibility; and

(iv) The subscriber may be responsible for premiums paid by the state for the dependent's health plan coverage after the dependent lost eligibility.

(b) **Employees have the opportunity to remove dependents:**

(i) During the annual open enrollment. The dependent will be removed the last day of December; or

(ii) During a special open enrollment as described in subsections (3) and (4) of this section. The dependent will be removed the last day of the month ~~((following the date corresponding to))~~ in which the event that creates the special open enrollment occurs.

(c) **Retirees, survivors, and enrollees with PEBB continuation coverage under WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, or 182-12-148 may remove dependents** from their coverage outside of the annual open enrollment or a special open enrollment by providing written notice to the PEBB program. Unless otherwise approved by the PEBB program, the dependent will be removed from the subscriber's coverage prospectively.

(3) **Special open enrollment.** Subscribers may enroll or remove their dependents outside of the annual open enrollment if a special open enrollment event occurs. The change in enrollment must correspond to the event that creates the special open enrollment for either the subscriber or the subscriber's dependents or both.

• Health plan coverage will begin the first of the month following the event that created the special open enrollment; or in cases where the event occurs on the first day of a month, health plan coverage will begin on that date.

• Dependents will be removed from the subscriber's health plan coverage the last day of the month following the event.

• If the special open enrollment is due to the birth or adoption or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of a child, health plan coverage will begin or end the month in which the event occurs. The following changes are events that create a special open enrollment for medical and dental:

(a) ~~((Subscriber acquires an eligible))~~ Subscriber's dependent becomes eligible under PEBB rules:

(i) Through marriage((:)) or registering a domestic partnership with Washington's secretary of state((:)):

(ii) Through birth, adoption, or when a subscriber has assumed a legal obligation for total or partial support in anticipation of adoption((:)):

(iii) Through legal custody or legal guardianship; or

(iv) When a child becomes eligible as an extended dependent;

~~(b) ((A dependent becomes eligible by fulfilling PEBB dependent eligibility criteria under WAC 182-12-250 or 182-12-260;~~

~~(c) Subscriber loses an eligible dependent or a) Subscriber's dependent no longer meets PEBB eligibility criteria(;) because:~~

~~((#)) (i) Subscriber has a change in marital status or Washington state registered domestic partnership status, including legal separation documented by a court order;~~

~~(ii) A child dependent turns age twenty-six;~~

~~(iii) A child dependent ceases to be eligible as an extended dependent or as a dependent with disabilities; or~~

~~(iv) A dependent dies;~~

~~((#)) (c) Subscriber or a dependent loses ((comprehensive)) coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);~~

~~((#)) (d) Subscriber or a dependent has a change in employment status that affects the subscriber's or a dependent's eligibility((-level of benefits, or cost of)) for group health coverage or the employer contribution toward insurance coverage;~~

~~((#)) (e) Subscriber or a dependent has a change in ((place of)) residence that affects ((the subscriber's or a dependent's eligibility, level of benefits, or cost of insurance coverage)) health plan availability;~~

~~((#)) (f) Subscriber receives a court order or medical support ((enforcement)) order requiring the subscriber, ((their)) the subscriber's spouse, or the subscriber's Washington state registered domestic partner to provide insurance coverage for an eligible dependent(-) a former spouse or former registered domestic partner is not an eligible dependent(-)); or~~

~~((#)) (g) Subscriber or a dependent becomes eligible for a medical assistance program under the department of social and health services, including medicaid or the children's health insurance program (CHIP), or the subscriber or dependent loses eligibility in ((such)) a medical assistance program((-or~~

~~(j) Subscriber or dependent dies)).~~

(4) Enrollment requirements. Subscribers must submit the appropriate forms within the time frames described in this subsection. Employees submit the appropriate forms to their employing agency. All other subscribers submit the appropriate forms to the PEBB program. In addition to the appropriate forms indicating dependent enrollment, the PEBB program may require the subscriber to provide documentation or evidence of eligibility or evidence of the event that created the special open enrollment.

(a) If a subscriber wants to enroll their eligible dependent(s) when the subscriber becomes eligible to enroll in PEBB benefits, the subscriber must include the dependent's enrollment information on the appropriate forms that the subscriber submits within the relevant time frame described in WAC 182-08-197, 182-12-171, or 182-12-250.

(b) If a subscriber wants to enroll eligible dependents during the annual open enrollment, the subscriber must sub-

mit the appropriate forms no later than the ~~((end))~~ last day of the annual open enrollment.

(c) If a subscriber wants to enroll newly eligible dependents, the subscriber must submit the appropriate enrollment forms no later than sixty days after the dependent becomes eligible except as provided in (d) of this subsection.

(d) If a subscriber wants to enroll a newborn or child whom the subscriber has adopted or has assumed a legal obligation for total or partial support in anticipation of adoption, the subscriber should notify the PEBB program by submitting an enrollment form as soon as possible to ensure timely payment of claims. If adding the child increases the premium, the subscriber **must** submit the appropriate enrollment form no later than twelve months after the date of the birth, adoption, or the date the legal obligation is assumed for total or partial support in anticipation of adoption.

(e) If the subscriber wants to enroll a child age ~~((twenty))~~ twenty-six or older as a child with disabilities, the subscriber must submit the appropriate enrollment form(s) required to certify the dependent's eligibility within the relevant time frame described in WAC 182-12-250(3) or 182-12-260(3).

(f) If the subscriber wants to change a dependent's enrollment status during a special open enrollment, the subscriber must submit the appropriate forms no later than sixty days after the event that creates the special open enrollment.

(g) If the subscriber wants to remove a dependent from enrollment during an open enrollment, the subscriber must submit the appropriate forms. Unless otherwise approved by the PEBB program, enrollment will be removed prospectively.

NEW SECTION

WAC 182-16-025 Where do members appeal decisions regarding eligibility, enrollment, premium payments, or the administration of benefits?

Note:

Eligibility decisions address whether a subscriber or a subscriber's dependent is entitled to insurance coverage, as described in PEBB rules and policies. Enrollment decisions address the application for PEBB benefits as described in PEBB rules and policies including, but not limited to, the submission of proper documentation and meeting enrollment deadlines.

(1) Any employee of a state agency or his or her dependent aggrieved by a decision made by the employing state agency with regard to public employee benefits eligibility or enrollment may appeal that decision to the employing state agency by the process outlined in WAC 182-16-030.

(2) Any employee of an employer group or his or her dependent who is aggrieved by a decision made by an employer group with regard to PEBB eligibility or enrollment may appeal that decision to the employer group through the process established by the employer group.

Exception:

Appeals by an employee of an employer group or his or her dependent based on eligibility or enrollment decisions regarding life insurance or long-term disability insurance must be made to the PEBB appeals committee by the process described in WAC 182-16-032.

(3) Any employee, self-pay enrollee, retiree, or dependent aggrieved by a decision made by the PEBB program

with regard to public employee benefits eligibility, enrollment, or premium payments may appeal that decision to the PEBB appeals committee by the process described in WAC 182-16-032.

(4) Any PEBB enrollee aggrieved by a decision regarding the administration of a PEBB medical plan, self-insured dental plan, insured dental plan, life insurance, long-term care insurance, long-term disability insurance, or property and casualty insurance may appeal that decision by following the appeal provisions of those plans, with the exception of eligibility, enrollment, and premium payment determinations.

(5) Any PEBB enrollee aggrieved by a decision regarding the medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP) offered under the state's salary reduction plan may appeal that decision by the process described in WAC 182-16-036.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-16-030 How can an employee or an employee's dependent appeal a decision made by a state agency about eligibility or enrollment in benefits? (~~Any employee or employee's dependent aggrieved by a decision made by a state agency with regard to public employee benefits eligibility or enrollment may appeal that decision to the state agency. Any dependent aggrieved by a decision made by the PEBB program may appeal the decision by submitting an appeal to the PEBB appeals committee in the same manner as a self-pay enrollee as described in WAC 182-16-032.~~)

~~Any employer group employee or employee's dependent aggrieved by a decision with regard to PEBB eligibility, enrollment or premium payment may appeal that decision to the employer group. Appeals to employer groups are not subject to this rule.~~

Note: ~~Eligibility decisions address whether an employee or an employee's dependent is entitled to insurance coverage, as described in PEBB rules and policies. Enrollment decisions address the application for PEBB benefits as described in PEBB rules and policies, including but not limited to the submission of proper documentation and meeting enrollment deadlines.~~

~~The state agency may only reverse eligibility or enrollment decisions based on circumstances that arose due to delays caused by the state agency or error(s) made by the state agency.)~~

(1) ~~((Any employee or employee's dependent aggrieved by))~~ An eligibility or enrollment decision made by ((a)) an employing state agency may ((appeal the decision)) be appealed by submitting a written request for review to the employing state agency. The employing state agency must receive the request for review within thirty days of the date of the initial denial notice. The contents of the request for review are to be provided in accordance with WAC 182-16-040.

(a) Upon receiving the request for review, the employing state agency shall make a complete review of the initial denial by one or more staff who did not take part in the initial denial. As part of the review, the employing state agency may hold a formal meeting or hearing, but is not required to do so.

(b) The employing state agency shall render a written decision within thirty days of receiving the request for review. The written decision shall be sent to the appellant.

(c) A copy of the employing state agency's written decision shall be sent to the employing state agency's administrator or designee and to the PEBB appeals manager. The employing state agency's written decision shall become the employing state agency's final decision effective fifteen days after the date it is rendered.

(d) The employing state agency may reverse eligibility or enrollment decisions based only on circumstances that arose due to delays caused by the employing state agency or error(s) made by the employing state agency.

(2) Any employee or employee's dependent who disagrees with the employing state agency's decision in response to a request for review, as described in subsection (1) of this section, may appeal that decision by submitting a notice of appeal to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal within thirty days of the date of the employing state agency's written decision on the request for review.

~~((As well, any employee or employee's dependent may appeal a decision about premium payments by submitting a notice of appeal to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal within thirty days of the date of the denial notice.))~~ The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(a) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

(b) The PEBB appeals committee shall render a written decision within thirty days of receiving the notice of appeal. The written decision shall be sent to the appellant.

(c) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

AMENDATORY SECTION (Amending Order 09-02, filed 11/17/09, effective 1/1/10)

WAC 182-16-032 How can ((a)) an employee, retiree, self-pay enrollee, or dependent appeal a decision made by the PEBB program regarding eligibility, enrollment, or premium payments? (~~Any~~) An eligibility, enrollment, or premium payment decision made by the PEBB program may be appealed by submitting a notice of appeal to the PEBB appeals committee. The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(1) The notice of appeal from an employee or employee's dependent must be received by the PEBB appeals manager within thirty days of the date of the denial notice by the PEBB program.

(2) The notice of appeal from a retiree, self-pay enrollee, or dependent ((aggrieved by a decision made by the PEBB program with regard to public employee benefit eligibility, enrollment, or premium payments may appeal the decision to the PEBB appeals committee.

Note: ~~Eligibility decisions address whether a retiree, self-pay enrollee or their dependent is entitled to insurance coverage, as described in PEBB rules and policies. Enrollment decisions address the application for PEBB benefits as~~

described in PEBB rules and policies, including, but not limited to the submission of proper documentation, enrollment deadlines, and premium related issues.))

of a retiree or self-pay enrollee must be received by the PEBB appeals manager ((must receive the notice of appeal)) within sixty days of the date of the denial notice by the PEBB program. ((The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

((1)) (3) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

((2)) (4) The PEBB appeals committee shall render a written decision within thirty days of receiving the notice of appeal. The written decision shall be sent to the appellant.

((3)) (5) Any appellant who disagrees with the decisions of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

AMENDATORY SECTION (Amending Order 08-03, filed 10/1/08, effective 1/1/09)

WAC 182-16-050 How can an enrollee or entity ((get)) request a hearing if aggrieved by a decision made by the PEBB appeals committee? (1) Any party aggrieved by a decision of the PEBB appeals committee, may request an administrative hearing.

(2) The request must be made in writing to the PEBB appeals manager. The PEBB appeals manager must receive the request for an administrative hearing within thirty days of the date of the written decision by the PEBB appeals committee.

(3) The agency shall set the time and place of the hearing and give not less than twenty days notice to all parties.

(4) The administrator, or his or her designee, shall preside at all hearings resulting from the filings of appeals under this chapter.

(5) All hearings must be conducted in compliance with these rules, chapter 34.05 RCW and chapter 10-08 WAC as applicable.

(6) Within ninety days after the hearing record is closed, the administrator or his or her designee shall render a decision which shall be the final decision of the agency. A copy of that decision shall be mailed to all parties.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 182-16-034 How can a PEBB enrollee appeal a decision regarding the administration of a PEBB medical plan, insured dental plan, life insurance, long-term care insurance, long-term disability insurance, or property or casualty insurance?
- WAC 182-16-037 How can an enrollee appeal a decision by the agency's self-insured dental plan?

**WSR 10-18-109
PROPOSED RULES
ARTS COMMISSION**

[Filed September 1, 2010, 11:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-15-199 on July 22, 2009.

Title of Rule and Other Identifying Information: Amendments to Title 30 WAC, Arts commission, for the purpose of clarifying and updating throughout.

Hearing Location(s): Washington State Arts Commission, The Evergreen Plaza Building, 711 Capitol Way South, Suite 600, Olympia, WA 98504, on October 18, 2010, at 4 to 6 p.m.

Date of Intended Adoption: November 4, 2010.

Submit Written Comments to: Mark Gerth, WSAC Communications Manager, P.O. Box 42675, Olympia, WA 98504, e-mail info@arts.wa.gov, fax (360) 586-5351, by November 2, 2010.

Assistance for Persons with Disabilities: Contact Mark Gerth at (360) 586-8093 or mark.gerth@arts.wa.gov, 711 Washington relay service, October 11, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments will clarify the arts commission's purpose, organization, procedures and processes; and align the Title 30 WAC with current commission guidelines and policies.

Reasons Supporting Proposal: To make the rules more accessible and understandable.

Statutory Authority for Adoption: Chapter 43.46 RCW. Statute Being Implemented: Chapter 43.46 RCW.

Rule is necessary because of state court decision, Thurston County Superior Court Order #08-2-02829-9 for WAC 30-08-070 and 30-40-070(4) only.

Name of Proponent: Arts commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Tucker, Executive Director, 711 Capitol Way South, Suite 600, Olympia, WA 98504, (360) 586-2423.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(b), a small business economic impact statement is not required for rules that relate only to internal government operations and that are not subject to violation by a nongovernmental party.

A cost-benefit analysis is not required under RCW 34.05.328. Arts commission rule making does not require the preliminary cost-benefit analysis in RCW 34.05.328.

September 1, 2010
Kris Tucker
Executive Director

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-01-020 Rule-making authority. The Washington state arts commission is authorized by RCW 43.46.040 to adopt rules under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-01-040 ~~((Description of))~~ **Commission's purpose ((and goals))**. ~~((+))~~ The Washington state arts commission is charged with the conservation and development of the state's artistic resources as described in RCW 43.46.005. ~~((It is a citizens' commission consisting of nineteen members appointed by the governor and four members of the legislature.))~~ It is authorized by RCW 43.46.050 to study, plan, and advise the governor, state departments, and the legislature regarding cultural development. Through the authority granted by RCW 43.46.055, the commission may administer any activity, and assist any person or agency in programs or projects related to the growth and development of the arts and humanities.

~~((2) Statement of purpose. The commission has adopted as its mission: The arts are essential to the quality of life for all of Washington's citizens. The Washington state arts commission states its dedication to the support of the promotion, growth, development, and preservation of the arts within the state. The commission strives to foster artistic merit and ensure accessibility to all citizens of the state.~~

~~(3) Goals. To work toward this mission, the commission will promote throughout the state:~~

- ~~(a) Artistic development, growth, and preservation;~~
- ~~(b) Artistic expressions of the many cultures which contribute to Washington's diversity;~~
- ~~(c) The arts as basic to the education of all citizens;~~
- ~~(d) Access, equity, and local empowerment in all its activities; and~~
- ~~(e) Organizational skills development, stability and continuity, and managerial expertise.))~~

NEW SECTION

WAC 30-01-055 Responsibilities. (1) Board responsibilities.

- (a) Approves the commission budget each fiscal year and biennium;
- (b) Approves the commission's strategic plan and goals each biennium;
- (c) Approves all grants, except when such authority is specifically delegated to the executive director;
- (d) Approves changes to rosters, as specified in these rules;
- (e) Fulfills other responsibilities as established in Title 30 WAC; and
- (f) May delegate specific responsibilities to staff.
- (g) Officers of the board serve as specified in WAC 30-08-080 (Board officers and committees).
- (2) Executive director responsibilities.
 - (a) Manages the agency;
 - (b) Approves and signs contracts;
 - (c) Acts as official spokesperson for the commission;
 - (d) Fulfills other responsibilities as established in Title 30 WAC and as otherwise determined by the board; and
 - (e) May delegate specific responsibilities to staff.
- (3) Staff responsibilities.

Under the direction of the executive director, staff develop and implement the commission's strategic plan, budget, and programs. Staff have the authority to:

- (a) Manage programs, including development of application forms, guidelines, and review criteria, and convene and manage panels to review applications;
- (b) Define and publish definitions in addition to those in chapter 30-02 WAC (Definitions), as necessary to implement commission programs;
- (c) Negotiate, prepare, and administer contracts; and
- (d) Fulfill other responsibilities as established in Title 30 WAC and otherwise as determined by the board or executive director.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-01-060 Office hours and contact information. The offices of the Washington state arts commission ~~((is))~~ are open from 8:00 a.m. to 5:00 p.m. Monday through Friday except ~~((weeks that include))~~ on state legal holidays and other posted office closures. Written correspondence should be addressed to P.O. Box 42675, Olympia, WA 98504-2675. Additional information is available on the commission's web site at www.arts.wa.gov. ~~((For business hours and contact information related to public records see WAC 30-04-040.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 30-01-010	Purpose.
WAC 30-01-050	Organization.

NEW SECTION

WAC 30-02-005 Scope of this chapter. This chapter is to define terms necessary for the public to use commission programs and services, and to understand the rules of the commission. Staff may define and publish additional definitions as necessary to implement commission programs.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-02-010 Definitions. The following definitions shall apply throughout ~~((this))~~ Title 30 WAC:

~~((1))~~ "Agency" means the agency with one-half of one percent of its capital construction appropriations designated for the acquisition of works of art under RCW 43.17.200, 43.19.455, 28A.335.210, and 28B.10.025, as follows:

- ~~(a) RCW 43.17.200 designates all state agencies, departments, boards, councils, commissions, and quasi-public corporations.~~
- ~~(b) RCW 43.19.455 designates all state agencies under the department of general administration.~~
- ~~(c) RCW 28A.335.210 designates "common schools" (public schools) recognized by the state of Washington.~~

(d) RCW 28B.10.025 designates the University of Washington, Washington State University, regional universities, The Evergreen State College and community college districts.

(2) "Agency project committee" means an advisory committee that works with the commission to develop a designated art project. The agency project committee shall be appointed at the commission's request by the administration of the agency receiving the project and may consist of members representing: Agency administration, artists or art professionals, community members, and building users. Committee nominations should strive to be balanced by gender, ethnically diverse, and represent the constituencies of the agency. The commission may recommend representatives to the agency project committee.

(3) "Appeal" means any request by an applicant to the commission for reconsideration of a previous decision on a program application.

(4) "Applicant" means a legally incorporated organization, unit of government, or individual.

(5) "Art scholar" means a folklorist, art historian, aesthete, art critic, or other scholar of the arts recognized as a professional by peers in the field.

(6) "Art selection panel" means a body appointed by the commission to review, recommend, and select artists for projects according to project specifications. Panels will vary in size and be comprised of artists and/or art professionals. Panel nominations should strive to be balanced by gender, ethnically diverse, and represent the variety of contemporary artistic production.

(7) The "artists resource bank" means a file of artists' slides and materials maintained by the commission. Artists included in the artists resource bank are selected by art selection panels through competitions and considered for project selection by agency project committees.

(8) "Award" means the financial assistance committed through a contract or paid to an eligible applicant.

(9) "Chairperson" means that person elected pursuant to RCW 43.46.040.

(10) "Commission" means the Washington state arts commission.

(11) "Commissioners" mean the members of the commission who are appointed pursuant to RCW 43.46.015.

(12) "Committee chairpersons" mean those persons appointed by the chairperson of the commission as described in WAC 30-01-050(3).

(13) "Committees" mean those subgroups of the commission appointed by the chairperson as described in WAC 30-01-050(5).

(14) "Complimentary tickets" are any free admissions provided by arts organizations to commissioners or staff for evaluation purposes.

(15) "Deaccessioning" means the removal of a work of art from the state art collection by the commission.

(16) "Evaluators" are individuals requested to make recommendations regarding programs, selections, and issues before the commission based on their expertise, training, or experience in a given field.

(17) "Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter.

(18) "Financial assistance" means money provided to applicants from federal, state, or private funds of the commission.

(19) "Fiscal year" means the period beginning July 1 and ending June 30 of the following year.

(20) "Folk artist" means those most valuable and most authentic practitioners of the folk and traditional arts that have been brought up within a traditional community, learning the repertoire from their own seniors and absorbing the style as they live the life that the style and the repertoire represent.

(21) "Grant" means award or financial assistance.

(22) "Grantee" means an institution, organization, arts group, or individual receiving a grant.

(23) "Literary arts" shall include poetry, fiction, and literary or arts criticism.

(24) "Local arts commission" means a governmental agency created to represent, serve, and promote interdisciplinary arts, artists, and arts organizations within its legal jurisdiction.

(25) "Local arts council" means a private, nonprofit organization, designated under Section 501(c)(3) as a tax-exempt organization by the Internal Revenue Service, created to represent, serve and promote multidisciplinary arts, artists, and arts organizations within its community jurisdiction.

(26) "Maintenance" means the ongoing upkeep required for artworks to retain their structural and aesthetic integrity.

(27) "Matching component" means an amount of money or the value of materials or services provided by the applicant.

(28) A "Native American" is a person of recognized North American Indian descent through tribal affiliation or general tribal community recognition.

(29) "Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501(c)(3) of the IRS code.

(30) "Panels" mean those individuals from which the commission, as a part of its regular practice, may seek advice in order to provide a comprehensive professional perspective in the decision-making process, and may include commissioners.

(31) "Performing arts" mean the broad disciplines of music, dance, and drama and the various forms of expression and performances associated within them.

(32) "Postmark" means the date affixed to letters, parcels or packages by the United States Postal Service (USPS); either through the USPS postmark stamp or USPS meter tape.

(33) "Professional artist" means a person generally recognized by critics and peers as a professional producing high quality work on a regular basis. Other indicators of professionalism include frequent or consistent exhibitions, performances, readings, publications, purchases by museums, commissions, honors and awards, and art training. Students enrolled in an ongoing formal art education program and avo-

educational practitioners are not considered professional. Hereinafter, professional artist will be referred to as "artist."

(34) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(35) "Special populations" mean public or nonprofit institutions serving prison programs, incarcerated youth programs, and programs serving the mentally or physically disabled, and youth at risk.

(36) "Sponsor" means any Washington state public school, school district, educational service district, private nonparochial school, college or university, or any cultural or community organization including local arts councils and commissions, retirement centers, libraries, hospitals, correctional centers, and other facilities for special populations.

(37) "Staff" means those persons employed by the executive director pursuant to RCW 43.46.045.

(38) The "state art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.455. Individual works are held in trust under the terms of an interagency agreement by agencies working in partnership with the commission. Development, administration, and management of the overall collection, including maintenance if funded, deaccessioning and loan policies, archival record-keeping and documentation, shall be carried out by the commission.

(39) "Support" means financial, technical, or information assistance provided by the commission and the staff to individuals or organizations.

(40) "Technical assistance" means the transmittal of information, skills, and/or resources that help to improve the ability of an institution, organization, arts group, or individual to accomplish its purpose.

(41) "Three-dimensional visual arts" shall include relief and sculpture in the round and three-dimensional crafts.

(42) "Traditional artist" means those most valuable and most authentic practitioners of the folk and traditional arts that have been brought up within a traditional community, learning the repertoire from their own seniors and absorbing the style as they live the life that the style and the repertoire represent.

(43) "Two-dimensional visual arts" shall include painting, drawing, print making, photography, multimedia, and two-dimensional crafts.

(44) "Washington state arts commission" means the commission established pursuant to RCW 43.46.015.

(45) "Writing" means handwriting, typewriting, printing, photostating, and every other means of recording, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.) "Accession" means to formally acquire a work of art for the state art collection, including the action of assigning an accession or control number to the work of art.

"Appeal procedure" means the procedure as established in WAC 30-12-036 (Request for review of denied applica-

tions) whereby an applicant must request a review of a denied application.

"Application form" means the printed or electronic forms created and published by staff to be used in commission program applications.

"Application guidelines" means the published document that provides the public with information on how to apply for commission programs, including eligibility requirements, review criteria, deadlines, timelines, and appeal procedure. Application guidelines may be published in a printed format and/or in electronic format accessible through the commission's web site.

"Art advisory committee" means a committee formed by staff and a partner agency to develop plans and overall project specifications, and to make funding allocation decisions related to the state art collection.

"Art in public places program" means the visual art program of the commission established by the legislature in RCW 43.46.090 to acquire works of art and to develop, administer, and operate the state art collection.

"Art selection committee" means a committee formed by a partner agency, and approved by staff, to review, recommend, and select artists to create works of art for the state art collection, or to review, recommend, and select works of art for or from the state art collection, through a process facilitated by staff.

"Artistic excellence" means evidence of some or all of the following: Mastery of skills and techniques, professional approaches to process and presentation, communication of unique vision or perspective, evidence of extensive experience.

"Artistic merit" means artistic quality and significance, potential impact on the artistic and/or cultural development of a community; potential to broaden access to, expand and diversify the audiences for, or strengthen communities through the arts.

"Arts professional" means an individual who has formal artistic or arts management training and/or professional arts-related work experience.

"Board" means the board of commissioners appointed to the Washington state arts commission pursuant to RCW 43.46.015.

"Chair" means the chair of the board, elected pursuant to WAC 30-08-050 and fulfilling duties as established in Title 30 WAC.

"Collections management" means the ongoing care, preservation, and maintenance of the state art collection, including activities such as the management of conservation, restoration, deaccession, documentation, inventory, labeling, loans, and re-siting of works of art.

"Commission" means the collective entity of the Washington state arts commission, including the board, executive director, and staff.

"Commissioner" means an individual appointed to the board of the Washington state arts commission.

"Conservation" means treatment of malfunctioning or damaged works of art for the purpose of bringing them to a stable condition so that future routine and special maintenance can be effective. Conservation-related activities may also include examination and documentation.

"Curator" means a qualified visual arts professional with past curatorial experience selected to recommend works of art for acquisition to the state art collection.

"Deaccession" means board action to remove an accessioned work of art from the state art collection.

"Disability" is defined in RCW 49.60.040(7).

"Eligibility requirements" means published standards by which applications are reviewed to determine if they meet the minimum required qualifications to apply for a commission program.

"Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter and Title 30 WAC.

"Grant" means a contract for arts or cultural services between the commission and an organization or individual.

"Inventory" means a periodic survey of the physical state and current location of works of art in the state art collection.

"Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501(c)(3) of the IRS code.

"Panel" means a group of individuals convened by staff to review nominations and applications, based on published review criteria, in order to make selection recommendations to the board or executive director.

"Partner agency" means a state agency, K-12 public school, university, college, community college, or other public entity working with the art in public places program.

"Professional artist" means a person who has formal artistic training; and/or has professional exhibition, performance, or publication experience; and/or who is recognized by critics and peers as skilled in art making.

"Public artist roster" means the board approved list of professional artists eligible to create visual works of art for the state art collection.

"Re-siting" means the relocation of a work of art in the state art collection within the jurisdiction of a partner agency or between partner agencies.

"Restoration" means treatment that returns a malfunctioning or damaged work of art to a known or assumed state, often through the addition of non-original material.

"Review criteria" means the standards used by panels to evaluate applications.

"Roster" means a list of approved arts professionals who have the skills and experience to address the needs of a specific commission program.

"Routine maintenance" means a regular procedure to preserve a work of art in the state art collection in proper condition: Clean, presentable, and in working order.

"Site responsive" means created, planned, or intended for a particular site. A site responsive work of art addresses both the physical characteristics of its location (size, environment, lighting, public use, etc., of the site) and the community in which it is situated (neighborhood, users of site, historical population, etc.).

"Special maintenance" means anticipated but infrequent activities required to maintain aesthetic and/or structural aspects of the works of art in the state art collection, including integrity of the overall surface and/or individual elements.

"Staff" means employees of the Washington state arts commission, under the direction of the executive director, pursuant to RCW 43.46.045, employed to carry out the functions of that chapter, and Title 30 WAC.

"State art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.-455.

"Teaching artist" means professional artists who are dedicated to arts education as an integral part of their professional practice, and who have cultivated skills as an educator in concert with their skills as artists.

"Underserved" means populations whose opportunities to experience the arts are limited by geography, ethnicity, economics, or disability.

"Washington state arts commission" means the collective entity of the Washington state arts commission, including the board and staff.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-04-010 Purpose. The purpose of this chapter is to ensure compliance by the Washington state arts commission with the provisions of (~~RCW 42.56.040 through 42.56.520~~) chapter 42.56 RCW dealing with public records.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-04-020 Public records available. All public records of the commission (~~as defined in WAC 30-02-010(34),~~) are available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.56.210 and WAC 30-04-070.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-04-030 Public records officer. The commission's public records shall be in the charge of the public records officer designated by the executive director. (~~The person so designated shall be located in the office.~~) The public records officer shall be responsible for the following: The implementation of commission policy in regard to the release of public records, coordinating the staff of the office in this regard, and generally insuring staff compliance with the public disclosure requirements of chapter 42.56 RCW.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-04-040 Inspection and copying. Public records shall be available for inspection and copying from 9:00 a.m. to (~~noon and from 1:00 p.m. to~~) 4:00 p.m., Monday through Friday (~~except weeks that include state~~), excluding legal holidays and other posted office closures. All public records of the commission are located at the (~~Washington State Arts Commission, 711 Capitol Way S., Suite 600, Olympia, WA 98504~~) office address published on our web site at www.arts.wa.gov.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-04-050 Requests for public records. In accordance with the requirements of chapter 42.56 RCW, that agencies prevent unreasonable invasion of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the ((agency)) commission, public records may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedure:

(1) A request shall be made in writing ((upon a form prescribed by the commission which shall be available at the location listed in WAC 30-04-040. The form shall be presented)) (including electronic mail) to the public records officer, or to another designated member of the staff if the public records officer is not available. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

~~(2) The public records officer, or staff person assisting the member of the public making the request, will ascertain whether or not the information requested is exempt from public inspection and copying as outlined in WAC 30-04-070 and further defined in RCW 42.56.210. Included therein, but not limited to, are such exemptions as personal information that may violate the rights of privacy of the individual, national defense information, certain aspects of real estate appraisals as outlined in RCW 42.56.260, and other particular information.~~

~~(3) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected shall such public record or portion thereof be made available for inspection by a member of the public.~~

~~(4) In all cases, it shall be the obligation of the public records officer, or staff person to whom the request is made, to:~~

- ~~(a) Locate the specific document(s) requested by the member of the public in the most timely manner possible;~~
- ~~(b) Assist the member of the public in appropriately identifying the public record requested;~~
- ~~(c) Protect and otherwise prevent damage to the public record being inspected and copied;~~
- ~~(d) Prevent disorganization of file folders or document containers;~~
- ~~(e) Remain in the company of the member of the public at all times during which a public document is being inspected, and provide the fullest assistance possible;~~
- ~~(f) Prevent excessive interference with the other essential functions of the agency.~~

~~(5) Only the staff and members of the commission may open files to gain access to commission records.~~

~~(6) No public record of the commission may be taken from the premises of the commission by a member of the public.~~

~~(7) Public inspection of commission records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for staff to ensure that no public record of the commission is damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public.~~

~~(8) Public records of the commission may be copied only on the copying machine of the commission unless other arrangements are authorized by the public records officer).~~

(2) If the request is for a list of individuals, the requestor shall certify that the request is not for commercial purposes except as provided under RCW 42.56.070(7).

NEW SECTION

WAC 30-04-055 Response to public records request.

(1) The public records officer shall respond to public records requests within five business days by:

- (a) Providing the record;
- (b) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request; or
- (c) Denying the public record request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of how the exemption applies to the record(s) withheld.

(2) Additional time to respond to the request may be based upon the need to:

- (a) Clarify the intent of the request;
- (b) Locate and assemble the information requested;
- (c) Notify third persons or agencies affected by the request; or
- (d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the public records officer may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the public records officer need not respond to it.

(4) If the public records officer does not respond in writing within five working days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

- (a) Consider the request denied; and
- (b) Petition the public records officer under WAC 30-04-080.

(5) If the public records officer responds within five working days acknowledging receipt of the request and providing an estimate of the time required to respond to the request, and the requestor feels the amount of time stated is not reasonable, the person seeking disclosure shall be entitled to petition the public records officer for a review of the estimate of time. The procedures set out in WAC 30-04-080 shall apply to this review.

(6) Only after a determination has been made that all, or such portion of a public record as is not redacted, may be inspected, shall such public record or portion thereof be made available for inspection by appointment.

(7) The request for an appointment shall be made in writing to the public records officer. The public records officer shall acknowledge such request for an appointment within two business days of the receipt of such request and will provide the requestor with the date(s) that such an appointment could be kept by an authorized staff person.

(8) The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

(9) In all cases, it shall be the obligation of the public records officer to:

(a) Locate the specific document(s) requested by the member of the public in the most timely manner possible;

(b) Assist the member of the public in appropriately identifying the public record requested;

(c) Protect and otherwise prevent damage to the public record being inspected and copied;

(d) Prevent disorganization of file folders or document containers;

(e) Remain in the company of the member of the public at all times during which a public document is being inspected, and provide the fullest assistance possible; and

(f) Prevent excessive interference with the other essential functions of the commission.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-04-060 Copying. No fee shall be charged for the inspection of public records. The commission shall charge ~~((an appropriate cost determined by the agency for copies of public records and the use of commission copy equipment. This charge is))~~ ten cents per black and white copy. Specialized records, including color copy, will be duplicated at the amount necessary to reimburse the commission for its actual cost ((incident to such copying)). If the public records officer deems it more efficient to have copying and/or duplicating done outside the ~~((agency))~~ commission, the charges will be based on the actual cost of such outside copying and/or duplicating service. For all copying and/or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington state arts commission. The commission may require that all charges be paid in advance of release of the copies of the records.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-04-080 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by rendering a written request for review to the public records officer. The written request shall specifically refer to the written statement by the public records officer or

other ~~((staffperson))~~ staff which constituted or accompanied the denial.

(2) Immediately after receiving a written request or review of a decision denying a public record, the public records officer or other ~~((staffperson))~~ staff denying the request shall refer it to the executive director or designee. The executive director shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the written request for review of the original denial.

(3) Administrative remedies shall not be considered exhausted until the executive director has returned the petition with a decision or until the close of the second business day following the request for review, whichever occurs first.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-04-120 Records index. The commission shall ~~((provide))~~ establish a ~~((current))~~ records index ~~((based on those records available in the commission office and outlined on the commission's schedule for archival of official agency records. Those records which are considered exempt for the purposes of WAC 30-04-070 and RCW 42.56.210 shall be so noted on the index)),~~ which shall be made available for public review.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 30-04-090 Protection of public records.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-08-010 ((Purpose)) Scope of this chapter. ~~((The purpose of))~~ This chapter is to ensure compliance by the board of the Washington state arts commission with the provisions of chapters ~~((42.56 and))~~ 42.30 and 43.46 RCW, in particular those sections which deal with procedures ~~((and meetings))~~ for the board.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-08-020 Uniform procedure rules. Practice and procedure in and before the ~~((commission))~~ board are governed by the uniform procedural rules codified in the Washington Administrative Code, WAC 10-08-001 through 10-08-252, as now or hereafter amended, which rules the ~~((commission))~~ board adopts as its own, subject to any additional rules the ~~((commission))~~ board has adopted or may choose to adopt. ~~((The commission))~~ Should any question not covered by its rules come before the board, the board reserves the right to make ((whatever)) a determination that is fair and equitable ((should any question not covered by its rules come before the commission, said determination to be)), and in accordance with the spirit and intent of the law.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-08-030 (~~(Commission)~~) **Board meetings.** (1) General schedule. The (~~(commission shall meet)~~) board meets at least (~~(five)~~) four times each fiscal year and at such other times as determined to be necessary. (~~The~~) All meetings of the commission (~~(shall all be)~~) are "regular" or "special" meetings(⁽²⁾) as those designations are applied in chapter 42.30 RCW. Meetings may be called, subject to the notice requirements of chapter 42.30 RCW, at any time and place by the (~~(chairperson)~~) chair or by a majority of the commissioners.

(2) Notice. Twenty calendar days notice of all meetings shall be given by posting on the commission's web site notification of the date, time and location of the meeting, and by mailing (~~(a copy of the notice and draft agenda)~~) or e-mailing the same to each commissioner and to any person who has made a written request to the commission to receive meeting notices.

(3) Special (~~(or emergency)~~) meetings. The twenty-day notice may be waived for special (~~(or emergency)~~) meetings upon consent of (~~(a majority of the commission)~~) the chair. In such cases, the provisions of RCW 42.30.080 (~~(will)~~) govern due notification of the time, place, and business to be transacted.

(4) Executive session. An executive session may be called by the (~~(chairperson)~~) chair or a majority of the (~~(commission)~~) board. Executive sessions shall deal only with matters authorized by chapter 42.30 RCW.

(5) (~~(Conference calls. Given the geographic distribution of the commissioners, the chairperson may convene a meeting by conference call if the situation warrants immediate action by the full commission, subject to the notice requirements of)~~) Meeting formats. Meetings may be convened in-person and/or by conference call, on-line, or other alternative format as determined by the chair and the executive director, subject to the requirements of the Open Public Meetings Act, chapter 42.30 RCW.

(6) Rules of order. The (~~(commission shall generally)~~) board generally follows *Roberts Rules of Order*, newly revised, in conducting its business meetings.

(7) Quorum. A simple majority of the regularly appointed and acting (~~(members of the commission shall)~~) commissioners constitute a quorum. If all (~~(twenty-one)~~) twenty-three positions are filled, the quorum (~~(shall be eleven)~~) is twelve.

(8) Voting rights. All officers of the (~~(commission shall)~~) board have the right to vote on all matters before the (~~(commission)~~) board, just as any other commissioner.

(9) (~~(Minutes.)~~) Meeting materials. Staff makes meeting materials available to the public at the time of the meeting, and following the meeting upon request.

(10) Minutes (~~(shall be kept)~~) of the proceedings of all (~~(commission)~~) board meetings are kept and published on the commission web site.

(~~(10) "Program guidelines" are guidelines and/or applications booklets which are published by the commission and constitute policy and/or interpretive statements and substantive changes cannot be added to or changed except at open public meetings.~~)

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-08-040 (~~(Commission)~~) **Board meetings—Public participation.** (~~(Any person or organization is encouraged to offer its points of view to the commission.)~~)

(1) Any person or organization wishing to make a formal presentation at a scheduled meeting of the (~~(commission)~~) board shall notify the executive director in writing at least ten days prior to the time of the meeting. The (~~(commission)~~) chair or executive director may waive the ten-day notice period in the event the proposed presentation is of critical importance to the operation of the commission.

(a) Such notification shall contain the name of the person or organization that desires to make a presentation; the address and phone number of the person or organization; and the topic to be presented or discussed.

(b) Permission to make a presentation to the (~~(commission)~~) board shall be granted by the executive director in consultation with the (~~(chairperson, as authorized by the commission)~~) chair.

(c) Confirmation of permission to make a presentation to the (~~(commission)~~) board shall be made, if (~~(at all)~~) reasonably possible, by (~~(the)~~) staff prior to the meeting of the (~~(commission)~~) board, and shall include the date and time of the meeting, and the (~~(time set)~~) approximate start time and duration established for the formal presentation.

(2) The (~~(chairperson)~~) chair shall have the discretion to recognize anyone in the audience who indicates at the time of the meeting a desire to speak at such meeting. Depending on the number of individuals wishing to speak or the (~~(commission's)~~) chair's sense of the business (~~(it)~~) the board must conduct, the (~~(chairperson)~~) chair may limit the time for comment to a reasonable period.

NEW SECTION

WAC 30-08-080 Board officers and committees. (1) Officers. The officers of the board shall be chair, first vice-chair, and second vice-chair.

(a) Election of officers.

(i) At the last meeting of the fiscal year, the current chair shall appoint a nominating committee. At the first meeting of the next fiscal year, the nominating committee shall report its recommendations for officers, after which nominations shall be open to the floor. An election shall be held and the commissioner receiving the highest number of votes for each of the three positions shall be declared elected to the position for the coming year. The officers shall act as chair, first vice-chair, and second vice-chair until the next election or successors are elected.

(ii) Vacancies may be filled by the chair between annual elections of officers.

(b) Duties of officers.

(i) The chair shall preside at all meetings of the board, act as principal spokesperson for the board, represent the board between meetings, appoint standing and ad hoc board committees, appoint committee chairs, remove members of committees, act as an ex officio member of all standing committees, provide a regular report to the board regarding recent actions and activities, and perform other duties that pertain to

the office. The chair shall lead board activities in close partnership with the executive director, and coordinate with the executive director in the planning and arrangements for all meetings of the board.

(ii) The first vice-chair shall act as chair in the absence or incapacity of the chair.

(iii) The second vice-chair shall act as chair in the absence or incapacity of both the chair and the first vice-chair.

(2) Interim committee. The chair, first vice-chair, second vice-chair, and at least one commissioner at-large appointed by the chair shall constitute the interim committee.

The interim committee may act on behalf of the board between regular meetings when such action is necessary to authorize staff implementation of a required function in a timely manner. Any interim committee action shall be ratified at the next regular meeting of the board.

(3) Committees of the board. The chair shall appoint such committees as the board or the chair deem necessary to carry on the business of the board.

A committee may act on behalf of the board between regular meetings when such action is necessary to authorize staff implementation of a required function in a timely manner, and when such action has been specifically authorized in advance by a majority vote taken at a regular meeting of the board. Any committee action shall be ratified at the next regular meeting of the board.

NEW SECTION

WAC 30-08-090 Conflict of interest. The requirements of state ethics laws apply to all board members operating in their role as a commissioner, including prohibitions against conflicts of interest, pursuant to chapter 42.52 RCW.

(1) Conflict of interest at board and board committee meetings.

(a) When a member of the board will benefit, directly or indirectly, from a grant, project, issue, or other matter before the board or a committee of the board, he/she shall notify the chair, executive director, or fellow committee members. In relation to approval of specific grants or grant lists, indicators of a conflict include financial or management ties to a specific project, such as salary, ownership, hands-on management or directorship by the commissioner, or a member of the commissioner's household or immediate family.

(b) A commissioner with a conflict of interest shall recuse himself/herself from the decision by taking the following actions:

(i) Recuse himself/herself from board/committee discussion regarding the specific grant, project, issue, or matter;

(ii) Recuse himself/herself from the board/committee vote on the specific grant, project, issue, or matter;

(iii) Refrain from attempting to influence the remaining commissioners at their discussion and vote regarding the specific grant, project, issue, or matter.

(c) Recusal may include leaving the room, if so requested by the chair or fellow committee members.

(d) If possible, where there is a known conflict of interest regarding an action item at a board meeting, the item will be

scheduled in such a manner that the commissioner can participate in other action items.

(2) Perceived conflict of interest at a board or committee meeting. Any member of the board or committee who feels that he/she has no prohibited conflict of interest but does have a personal or professional interest which the public might misconstrue in the particular situation, may either voluntarily recuse, as identified above; or disclose the interest to those present, and if there is no objection from anyone present, proceed to discuss and vote on the item. If there is an objection the chair shall determine if recusal is necessary and appropriate.

NEW SECTION

WAC 30-08-100 Complementary tickets and other gifts. In compliance with chapter 42.52 RCW, Ethics in public service, commissioners, executive director, and staff of the commission will not accept gifts of complementary tickets or other gifts that will influence or create the appearance of influence on commission decisions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 30-08-050	Commission meeting materials.
WAC 30-08-060	Committee meetings.
WAC 30-08-070	Appeal procedure—Awards and contracts.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-12-010 ((Purpose.)) Scope of this chapter. ~~((The purpose of)) This chapter is to ((provide the public and the commission's constituents with those)) establish rules that apply generally to ((all commission)) programs and services ((specifically, those that involve competitive application for support, awards or contracts for artistic services. In addition, each commission program has additional rules that apply which are contained in this chapter)) of the Washington state arts commission. Additional rules for specific programs are established in application guidelines, and in chapter 30-40 WAC (Art in public places program), 30-41 WAC (Poet laureate program), and 30-44 WAC (Governor's arts and heritage awards).~~

NEW SECTION

WAC 30-12-015 Grants. (1) The commission provides grants through a competitive process to organizations or individuals for the purpose of developing, sponsoring, and promoting the growth and development of the arts in the state of Washington.

(2) Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(3) The application process is managed pursuant to WAC 30-12-017 (Applications) and applications are reviewed by a panel pursuant to WAC 30-12-030 (Panels).

(4) The board reviews panel recommendations and approves grants, except as noted below.

(a) The executive director may approve grants which do not exceed three thousand dollars. Such actions are reviewed and ratified at the next meeting of the board.

(b) The board may delegate to the executive director approval of grants which exceed three thousand dollars. Such actions are reviewed and ratified at the next meeting of the board.

NEW SECTION

WAC 30-12-016 Rosters. (1) Staff may establish a roster to address program needs.

(2) Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(3) The application process is managed pursuant to WAC 30-12-017 (Applications) and applications are reviewed by a panel pursuant to WAC 30-12-030 (Panels).

(4) Staff may eliminate a roster due to changes in priorities, program needs, or resources, subject to the review and approval of the board.

(5) Removal from a roster.

(a) Staff have the authority to remove individuals from a roster for the following reasons:

(i) Individual on the roster fails to inform staff of new contact information;

(ii) Individual on the roster requests to be removed;

(iii) Individual on the roster is deceased;

(iv) Expiration of roster term limit, as published in application guidelines;

(v) Violation of the terms of a commission-related contract;

(vi) Any other reason specified in published application guidelines.

(b) Removed individuals may apply to the next roster competition, except if removed for violation of the terms of a commission-related contract or for other reasons as specified in application guidelines.

NEW SECTION

WAC 30-12-017 Applications. (1) Application cycles, forms, guidelines, eligibility requirements, and review criteria are established and published by staff.

(2) Application forms and guidelines are published on the commission web site no fewer than twenty calendar days prior to the deadline for submitting applications, pursuant to RCW 34.05.413.

(3) Applications that arrive or are postmarked by the published deadline as specified in application guidelines are reviewed by staff to determine if the application meets published eligibility requirements.

(4) Staff convene a panel to review eligible applications pursuant to WAC 30-12-030 (Panels).

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-12-030 Panels. (1) Panels are ~~((comprised of individuals whose expertise can address specific issues and program needs.~~

~~(2) Panel members))~~ convened by staff and are authorized to serve by the executive director ~~((, and)).~~

(2) Panels may include citizens, commissioners, and staff and will be three to seven members.

(a) Panelists are selected in order to achieve a balance of relevant expertise, and representation of diverse geographic and cultural communities, as appropriate to the program and review criteria.

(b) Panel members may be reimbursed for their services and/or their travel expenses. Commissioners and staff are not reimbursed for their panel services, but may be reimbursed for their travel expenses.

(3) Staff provide panel members an orientation, including conflict of interest rules pursuant to WAC 30-12-035 (Conflict of interest in panels and program committees).

(4) Panel members are expected to apply their critical judgment and expertise to evaluate applications based on the review criteria.

(5) The record of panel deliberations is comprised of: The names and qualifications of the panel members; panel orientation materials; declared conflicts of interest or recusals; scoring sheets; a summary of comments; and the panel's recommendations to the board.

~~((3))~~ (6) Panels may refrain from scoring an application, or making a recommendation, if, in their opinion, there is insufficient information ((or merit)) in the material under review.

~~((4))~~ (7) All panel recommendations are subject to the review and approval or ratification of the ((commission)) board.

NEW SECTION

WAC 30-12-035 Conflict of interest in panels and program committees. (1) The requirements of state ethics laws apply to all panels and program committees, including prohibitions against conflicts of interest, pursuant to chapter 42.52 RCW.

(2) When a member of a panel or program committee will benefit, directly or indirectly, from a grant, project, or other matter before the panel or committee, he/she shall notify the staff convening the panel or committee. Indicators of a conflict include financial or management ties to a specific application, proposal, submission or other matter, such as salary, ownership, hands-on management or directorship by the panelist or a member of the panelist's household or immediate family.

(3) Panel and program committee members who have a conflict of interest must recuse themselves from the decision by taking the following actions:

(a) Recuse himself/herself from panel/committee discussion regarding the specific application, proposal, submission or other matter;

(b) Recuse himself/herself from the panel/committee vote on the specific application, proposal, submission or other matter;

(c) Refrain from attempting to influence the remaining panel/committee members in their discussion and vote regarding the specific application, proposal, submission or other matter.

(4) In a panel/program committee meeting, recusal shall include leaving the room for the discussion and vote on the item with which the panel/committee member has a conflict of interest. The panel/committee members may participate in discussion that leads to preparation of the list of recommendations, including scoring of other applications.

(5) Perceived conflict of interest at a panel/committee meeting.

Any member of the panel/committee who feels that he/she has no prohibited conflict of interest but does have a personal or professional interest which the public might misconstrue in the particular situation, may either voluntarily recuse, as identified above, or disclose the interest to those present and, if there is no objection from anyone present, proceed to discuss and vote on the item. If there is an objection, the panel/committee member shall recuse himself/herself.

(6) Panel recommendations presented to the board for approval shall identify all conflicts of interest stated during the panel process.

NEW SECTION

WAC 30-12-036 Request for review of denied applications. (1) By this section, the commission adopts RCW 34.05.482 and 34.05.485 through 34.05.494 for the use of brief adjudicative proceedings when an application for a commission program has been denied and the applicant requests review of the denial.

(2) Brief adjudicative proceeding. If the board denies an application for a commission program, the applicant may challenge the board's decision by requesting a brief adjudicative proceeding.

(a) A request for a brief adjudicative proceeding must be filed in writing to the executive director within twenty-one calendar days of the date the denial was sent to the applicant, and must state the reason(s) for the request.

(b) The executive director or his/her designee acts as the presiding officer in the brief adjudicative proceeding.

(c) The presiding officer provides an opportunity for both the applicant and the commission to explain their views of the board's decision.

(i) The applicant and presiding officer may consult with staff to examine the application process, including application guidelines, composition of the panel, panel orientation materials, declared conflicts of interest or recusals; scoring sheets; summaries of panel comments as available; and the panel's recommendations to the board.

(ii) The presiding officer may rely on his/her examination of the application process, additional information provided by the applicant and the commission, and any other relevant information resulting from the presiding officer's inquiries.

(d) Initial order. When the presiding officer has reached a decision, the presiding officer will notify the applicant and the commission in a brief written statement explaining the reasons for the decision and advising the parties of the right to seek administrative review of the presiding officer's decision.

(e) The presiding officer's brief written statement is an initial order. If neither party requests review of the initial order as authorized by RCW 34.05.488 and 34.05.491, the presiding officer's initial order automatically becomes the final order.

(3) Administrative review of the initial order. The chair will conduct an administrative review of the presiding officer's initial order if the chair receives a written or oral request for review from either the applicant or the commission within twenty-one days after service of the initial order.

(a) The chair or the chair's designee acts as the reviewing officer in administrative review of an initial order.

(b) If neither party requests review, the reviewing officer may nonetheless review an initial order without notice to the parties, but the reviewing officer will not take any action on review that is less favorable to either party than the initial order, without giving that party notice and an opportunity to explain that party's view of the matter;

(c) The reviewing officer ensures that the matter meets the criteria in RCW 34.05.482(1) for brief adjudicative proceedings and that both the applicant and the commission have the additional opportunity, as part of the review, to explain their views of the matter to the reviewing officer;

(d) The reviewing officer may rely on the record of the application process, additional explanations provided by the parties, and any other relevant information resulting from the reviewing officer's inquiries;

(e) The reviewing officer enters a written order within twenty-one calendar days of the request for review, or, if the review was conducted without a request from either party, the reviewing officer enters a written order within twenty-one days of service of the presiding officer's initial order. The reviewing officer's order is a final order containing a brief statement of the reasons for the decision and notifying the parties of the availability of judicial review by a superior court pursuant to RCW 34.05.510 through 34.05.598;

(f) If the reviewing officer does not enter a written order within twenty-one calendar days after the request for review, the request is deemed to have been denied, and the initial order from the presiding officer becomes the final order subject to judicial review by a superior court pursuant to RCW 34.05.510 through 34.05.598.

(4) Record of review. The commission maintains, as its official record of the matter, all documents that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer if an administrative review was conducted.

(a) The presiding officer for the brief adjudicative proceeding, the reviewing officer on administrative review, and the superior court on judicial review may consider matters outside the commission's official record, subject to the limitations of RCW 34.05.558 and 34.05.562.

(b) If a party files a petition for judicial review by a superior court pursuant to RCW 34.05.510 through 34.05.598,

staff will prepare and transmit the official record to the superior court as required by RCW 34.05.566.

NEW SECTION

WAC 30-12-037 Accessibility complaints. (1) If a person believes an event, service, or facility funded by the commission has discriminated based upon a disability, he/she may do one of the following:

(a) File an informal complaint directly with the commission;

(b) File a complaint with the Washington state human rights commission; or

(c) Seek private legal counsel.

(2) If a person believes an event, service, or facility funded by the commission has discriminated for a reason other than disability, he/she should contact the Washington state human rights commission.

(3) If a person believes the commission has directly discriminated against him/her for any reason, he/she is advised to contact the Washington state human rights commission.

(4) Responding to informal complaints submitted to the commission. Staff will respond to complaints of discrimination based upon disability at/within/by a commission-funded event, service, or facility. Staff will work with its grantees to address the complaint. If access or an access plan is not satisfactorily attained within thirty days, staff will encourage the complainant to contact the Washington state human rights commission, to which staff will forward the complaint and any relevant records as determined by staff.

(5) If the complaint is verified and the grantee organization is found to be in noncompliance by the Washington state human rights commission, staff may put a hold on pending payment of any grant funds from the commission as well as withhold final decisions on any pending applications until that organization has addressed its noncompliance issues.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-12-160 Credits and endorsements of local programs. ~~The ((commission recognizes its potential for serving its constituents by the inclusion of credits in promotional information or documentation, to encourage funding from other sources. These credits shall not be considered an endorsement of the organization or individual but will constitute a factual accounting of past and/or present support to the organization or individual by the commission))~~ commission's logo or other credits may be used to indicate commission support for organizations or individuals who have received grants, membership on a roster, or sponsorship.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 30-12-040 Support of individual artists.

WAC 30-12-050 Support of arts institutions.

WAC 30-12-060	Support of Washington artists and organizations.
WAC 30-12-080	Special populations.
WAC 30-12-090	Native American arts.
WAC 30-12-100	Ethnic communities.
WAC 30-12-110	Geographic distribution of services.
WAC 30-12-130	Continuing support.
WAC 30-12-150	Complimentary tickets requested for the purpose of evaluation.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 30-14-010	Scope of chapter.
WAC 30-14-020	Purpose.
WAC 30-14-030	Eligibility.
WAC 30-14-040	Application form.
WAC 30-14-050	Application deadlines.
WAC 30-14-060	Application review process.
WAC 30-14-070	Application review criteria.
WAC 30-14-080	Appeals procedure.
WAC 30-14-090	Contracting.
WAC 30-14-100	Disbursement of funds.
WAC 30-14-110	Evaluation methods.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 30-18-010	Scope of chapter.
WAC 30-18-020	Program purpose.
WAC 30-18-030	Eligibility for artists in residence.
WAC 30-18-040	Eligibility for grantees.
WAC 30-18-050	Application form.
WAC 30-18-060	Application review process.
WAC 30-18-070	Application review criteria.
WAC 30-18-080	Contracting of artists.
WAC 30-18-090	Contracting of grantees.
WAC 30-18-100	Disbursement of funds.
WAC 30-18-110	Evaluation methods.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-22-010 Scope of chapter.
- WAC 30-22-020 Program purpose.
- WAC 30-22-030 Eligibility.
- WAC 30-22-040 Application form.
- WAC 30-22-050 Application review process.
- WAC 30-22-060 Application review criteria.
- WAC 30-22-070 Contracting.
- WAC 30-22-080 Disbursement of funds.
- WAC 30-22-090 Evaluation methods.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-26-010 Scope of chapter.
- WAC 30-26-020 Program purpose.
- WAC 30-26-030 Eligibility.
- WAC 30-26-040 Application form.
- WAC 30-26-050 Application review process.
- WAC 30-26-060 Application review criteria.
- WAC 30-26-070 Contracting.
- WAC 30-26-080 Disbursement of funds.
- WAC 30-26-090 Evaluation methods.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-010 ((Purpose-)) Scope of this chapter. ~~((The purpose of))~~ This chapter is to provide ~~((artists, state agencies, universities, colleges and community colleges, common schools, and the public with))~~ rules that apply specifically to the art in public places program to acquire and conserve works of art in the state art collection.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-40-020 Authority. The Washington state arts commission is authorized ~~((by RCW 43.46.040 to adopt rules and is authorized))~~ under RCW 43.46.090 to administer the art in public places program and is authorized by RCW 43.46.040 to adopt rules to do so. Staff has the authority to develop, administer, and manage the art in public places program. ~~((Under this authority, the commission develops, inventories, maintains and presents to the public the state art collection.))~~ The specific statutes these rules are intended to implement are: RCW 43.46.090, 43.46.095, 43.17.200,

43.17.205, 43.17.210, 43.19.455, 28A.335.210, 28B.10.025, and 28B.10.027.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-40-050 ((Fiscal procedures/eligibility-)) Funding. (1) ~~((Construction eligibility. Funding for works of art are generated through the capital budget under the following statutes:~~

~~(a) RCW 43.17.200 (state agencies) applies to construction of any new building and/or additions to an existing building (structure). Excluded are highway construction sheds, warehouses or other buildings of a temporary nature.~~

~~(b) RCW 28A.335.210 (common schools) applies to construction of any new building and/or additions to an existing building (structure). Excluded are sheds, warehouses, or other buildings of a temporary nature.~~

~~(c) RCW 28B.10.027 (universities, colleges and community colleges) applies to construction of any new building and/or additions to an existing building (structure). Renovation and remodel work exceeding two hundred thousand dollars are included. Excluded are sheds, warehouses and other buildings of a temporary nature.~~

~~(2)) Calculation of funds. ((The amount to be made available for works of art is to be calculated as follows:))~~

~~(a) ((RCW 43.17.200 and 28B.10.027) For each eligible appropriation, the one-half of one percent formula is to be applied to architecture and engineering fees, total building cost and equipment costs.~~

~~(b) (RCW 28A.335.210) For each eligible appropriation, the one-half of one percent formula is to be applied to the total moneys appropriated for state assistance to school districts.~~

~~(3)) Pursuant to RCW 43.46.090 through 43.46.095, one-half of one percent of the state's capital appropriation for the original construction of specific public buildings is set aside for the administration, acquisition, and conservation of works of art for the state art collection.~~

~~(b) The formula is applied to escalated maximum allowable construction cost, and may be applied to architecture and engineering fees and equipment cost.~~

~~(c) Funding is generated by construction of any new building and/or additions to an existing building or structure except for highway construction sheds, warehouses, or other temporary buildings. In addition, funding is generated by any renovation and remodel work exceeding two hundred thousand dollars at universities, colleges, and community colleges. Renovation and remodel work does not include repair, maintenance, or replacement of building systems, such as HVAC, plumbing, wiring, fire sprinklers, roofs, insulation, lighting, or other system that keeps the building functional and safe.~~

~~(2) Partner agency eligibility and site requirements of funds.~~

~~(a) All state agencies including all state departments, boards, councils, commissions, and quasi-public corporations; all universities, colleges, community colleges, and technical colleges; and the office of the superintendent of public instruction who appropriates state funding to school~~

districts for the original construction of school plant facilities, shall apply the formula.

(b) Works of art must be placed in public buildings or on public lands. In siting works of art, priority is given to state properties and K-12 public schools.

(c) Works of art may be sited in a location other than the construction site generating the funding.

(3) Use of funds.

(a) Staff is responsible for negotiating contracts and expending funds.

(b) Funds may be used for works of art in the state art collection that are:

(i) Integral to or attached to a public building or structure;

(ii) Detached inside or outside a public building or structure;

(iii) On or part of the landscape;

(iv) Permanent or temporary;

(v) Part of a portable exhibition or collection.

(c) Funds may be used for expenses incurred in the design, fabrication, and installation of works of art, artists' fees and expenses, staff administrative expenses, and conservation.

(d) Funds shall not be used for the partner agency's administrative expenses, architectural or professional design services, site preparation, public event expenses, insurance, or maintenance of the work of art.

(e) Funds shall not be used for clock towers, electrically powered water features, memorials, logos, signage, or the depiction of school mascots.

(4) Determination of funds. ((The commission)) Staff shall determine the funds that are available for projects and sites, in consultation with the partner agency; director of general administration ((and/or the)); directors of state agencies((;)); the superintendent of public instruction((;)) and school district boards of directors((, and)); or the boards of regents or trustees of universities, colleges, and community colleges((, shall determine the funds to be made available for art under)) (RCW 43.17.210, 43.19.455, 28A.335.210, and 28B.10.025).

((4) Supplementing)) (5) Supplemental funds ((for art)). The one-half of one percent ((expenditure)) formula is a required minimum for works of art. ((State)) Partner agencies((, universities, colleges and community colleges, and common schools)) may designate ((more than this amount in planning for a project. Other private and public funding sources may provide supplemental grants and matching funds)) additional funds from other sources. Works of art acquired using supplemental funding become part of the state art collection.

((5)) (6) Transfer of funds. ((The commission maintains the fiscal system for all one-half of one percent funds for art.)) After project funds for works of art ((have been)) are determined, ((the commission)) staff may request((s)) transfer of the funds ((for art to the commission. The transaction is made through an appropriate billing from the commission to the agency, and the agency transfers the funds to the commission.

The funds are transferable to the commission at the time the law providing for the appropriation becomes effective. In

the case of projects governed by the sale of bonds, the funds for art shall be eligible for transfer thirty days after the sale of the bond(s).

(6) Reappropriation of funds. Upon timely notification by the commission, the agency shall request reappropriation of the unspent funds for art in the coming biennium.

(7) Use of funds for art. The one-half of one percent funds for art may be used for expenses incurred in the design, fabrication and installation of works of art, artists' expenses and the commission's administrative expenses.

Funds for art may not be used for administrative expenses of the agency or architect; expenses of the agency as agreed upon for the preparation and installation of the work, dedication, and insurance, or for the maintenance of the works of art.

(8) Determination of projects and sites. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, shall determine the projects and sites to be designated for works of art under RCW 43.17.210, 43.19.455, 28A.335.210, and 28B.10.025.

(9) Contracting and expenditure.

(a) The commission is responsible for contracting and expending the one-half of one percent funds for art.

(b) The artists enter into a contract with the commission to create a new work or transfer title of an existing work according to the terms of the contract.

(c) The agency will comply with the terms of the inter-agency agreement as negotiated with the commission.

(10) Waiver of funds. School districts under the superintendent of public instruction may elect to waive their use of art funds. Waiver of funds for art will not cause loss of or otherwise endanger state construction funds. These funds shall be applied to works of art according to RCW 28A.335.210 at the discretion of the commission)) from the partner agency.

(7) Pooling of funds.

(a) Funds from multiple construction projects may be combined as part of a pooling program among partner agencies, and/or to fund larger works of art.

(b) Only K-12 school districts with applicable state assisted construction project funds may apply for K-12 pooled funds.

(c) Eligible K-12 school districts may apply for pooled funds pursuant to WAC 30-12-017 (Applications), 30-12-030 (Panels), and in accordance with published application guidelines.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-40-060 ((Maintenance/deaccessioning.)) Collections management. ((1) Maintenance responsibilities. The agency is responsible for all routine maintenance operations required on a periodic basis as specified by the artist in his/her maintenance specifications report. The commission is responsible as funded for any extraordinary repair or unscheduled maintenance required to restore a structurally or

aesthetically diminished artwork to its original intent and function.

~~(2) Deaccessioning. Works of art will be removed and disposed of according to the process established in the commission's deaccession policy from the state art collection if it has been determined by the commission that the work:~~

~~(a) Has been lost or stolen;~~

~~(b) Presents a safety hazard in its present condition; or that~~

~~(c) The restoration of the work's structural or aesthetic integrity is:~~

~~(i) Technically unfeasible;~~

~~(ii) Disproportionate to the value of the work.~~

~~(d) The environment/architectural support (on which a site-specific work depends) is to be destroyed or modified as to distort the artist's initial intent.)~~ (1) Staff manage the state art collection as funded, including conservation, restoration, deaccession, inventory, loans, and re-siting.

(2)(a) The commission enters into interagency agreements with partner agencies hosting sites for works of art in the state art collection. The interagency agreement is in effect throughout the partner agency's possession of the work(s) of art.

(b) Partner agencies are responsible for all routine and special maintenance for works of art in the state art collection, which they hold as stated in the interagency agreement.

(i) Routine maintenance includes activities such as surface dusting, replacement of lights, cleaning of glass or Plexiglas, removal of debris, or oiling of moving parts.

(ii) Special maintenance typically involves non-art specific skills including, but not limited to, the application of paint and/or sealant to certain works of art, mortar replacement, or landscape maintenance.

(3) Collections management policy includes:

(a) Conservation/restoration. The commission is responsible for the conservation and restoration of the state art collection. Staff determine conservation and restoration priorities and actions.

(b) Deaccession. The board has authority to formally remove works of art from the state art collection when those works of art meet the removal criteria in the collection management policy. Removal of works of art follows the procedures outlined in the collection management policy.

(c) Gifts and transfers. The commission does not accept gifts and transfers of works of art to the state art collection.

(d) Insurance. The state art collection is self-insured.

(e) Inventory. Staff inventory the state art collection in accordance with the state administrative and accounting manual.

(f) Loans of works of art. Works of art may be loaned for temporary exhibition in accordance with the collection management policy. The executive director approves, and staff coordinate outgoing loans.

(g) Re-siting. Staff manage the re-siting of works of art from the state art collection. Re-siting is intended to provide a long-term, secure, and visible home for a work of art. Priority for re-siting is given to the original partner agency when possible.

(i) If re-siting within the original partner agency jurisdiction is not feasible, then the work of art becomes available for

re-siting to other partner agencies, in accordance with the collection management policy.

(ii) Re-siting may not be feasible for physically integrated or site-responsive works of art. Priority may be given to partner agencies that have generated funding pursuant to WAC 30-40-050 (Funding) but have not received a public art project.

(h) Additional collections management policies are established in art in public places program guidelines and are approved by the board and published on the commission's web site.

NEW SECTION

WAC 30-40-100 Art acquisition committees. (1) Art advisory committees. Staff may recommend that a partner agency form an art advisory committee. Staff may appoint members of the committee. The committee may include, but is not limited to, members of an established art selection committee. The art advisory committee does not select artists or make decisions regarding artist proposals.

(2) Art selection committees. At staff request, an art selection committee shall be formed by the partner agency receiving the project. The committee is convened and facilitated by staff according to published program guidelines.

(a) Committee members may include partner agency administration, visual artists or visual art professionals, community members, board members and trustees, and building/location users. A balanced representation, reflecting the partner agency and the site's constituencies, should be appointed to the committee. Staff may recommend appointees to the committee.

(b) A preferred committee size is from three to seven members, depending on the method of acquisition of works of art.

(i) For commissioning works of art, the minimum committee size is five members. The committee shall select the artist and approve the artist's concept.

(ii) For direct purchase of curated existing works of art, the minimum committee size is five members. The committee will approve the selection of artists and work(s) of art.

(iii) For re-siting works from the state art collection, the minimum committee size is three members. The committee shall select the work(s) of art to be permanently re-sited.

NEW SECTION

WAC 30-40-110 Acquisition of works of art. (1) The commission enters into an interagency agreement with any partner agency generating one-half of one percent funds and/or hosting a site for a work of art in the state art collection.

(2) Methods of selecting artists and works of art.

(a) Commissioning new works of art. The primary method of acquisition is by commissioning new works of art through an art selection committee. The public artist roster (WAC 30-40-120) is the tool for selecting artists for commissioning except as specified in (d) of this subsection.

(b) Curated purchase. Staff facilitates a process whereby a curator recommends work(s) of art for art selection committee approval. The curator roster (WAC 30-40-130) is the tool

for selecting curators for recommendations except as specified in (d) of this subsection.

(c) Re-siting. Works of art may be re-sited with any partner agency pursuant to WAC 30-40-060 (3)(g) and in accordance with the collection care policy.

(d) Open competition. In consultation with the director of a partner agency, staff may elect to manage an open competition for artists to be considered for the commissioning of a new work(s) of art or for curators to recommend existing works of art through a curated purchase. The open competition process is managed pursuant to WAC 30-12-017 (Applications) and 30-12-030 (Panels) unless otherwise noted in this subsection.

(i) A partner agency art selection committee may act as the panel for the application review process.

(ii) In addition to artists who apply to the open competition, the art selection committee will review and consider all eligible artists from the public artist roster.

(iii) Artwork selection committee decisions regarding acquisitions are final and do not need board approval.

NEW SECTION

WAC 30-40-120 Public artist roster. (1) The public artist roster is managed pursuant to WAC 30-12-017 (Applications), 30-12-030 (Panels), and 30-12-016 (Rosters).

(2) Artists can apply and be accepted onto the public artist roster as either an individual or as an artist team. Should an artist team dissolve, all individuals on the team will be removed from the public artist roster.

(3) An artist or artist team on the public artist roster is considered inactive and not eligible for a new contract:

- (a) For a period of two years from the date a commissioning contract is signed; and/or
- (b) While under a proposal contract.

NEW SECTION

WAC 30-40-130 Curator roster. (1) The curator roster is managed pursuant to WAC 30-12-017 (Applications), 30-12-030 (Panels), and 30-12-016 (Rosters).

(2) An art selection committee will select curators presented to the committee by the staff. Geography, media, specialty, and availability will be considered.

(3) A curator on the roster is not eligible for a new contract while under a current contract with the commission.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 30-40-040	Program purpose and goals.
WAC 30-40-070	Program procedures.
WAC 30-40-080	Rejection of art.
WAC 30-40-090	Evaluation methods.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-41-010 Purpose. The Washington state arts commission is authorized by RCW 43.46.081 to establish and administer the poet laureate program. The poet laureate shall serve a two-year term, and engage in activities to promote and encourage poetry within the state, including, but not limited to, readings, workshops, lectures, and/or presentations for ~~((Washington))~~ educational institutions and communities in geographically diverse areas ~~((over a two-year term))~~.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-41-020 Procedures. (1) ~~((Selection of))~~ The process for selecting a poet laureate ~~((shall be made by a committee appointed and coordinated by the commission. The committee may))~~ is managed pursuant to WAC 30-12-017 (Applications) and WAC 30-12-030 (Panels), unless otherwise noted in this section.

(2) A member of the staff serves on the panel, which may also include representatives of the board, the Washington state library, the education community, the Washington commission for the humanities, publishing, and the community of Washington poets.

~~((2))~~ (3) The ~~((commission and the committee shall establish))~~ panel establishes review criteria to be used for the selection of a poet laureate. ~~((In addition to other criteria))~~ Competition frequency, and application forms and guidelines shall be established ~~((, the poet laureate must be a published poet, a resident of Washington state, active in the poetry community, and willing and able to promote poetry in the state of Washington throughout the two-year term))~~ and published by staff.

~~((3))~~ The recommendation of the poet laureate selection committee shall be forwarded to the commission, which shall appoint the poet laureate with the approval of the governor.

(4) The board shall review the panel's recommendations and advise the governor of its decisions. The governor has final approval authority.

(5) Following the governor's approval of the poet laureate, staff shall inform the board and the appointee.

(6) If the governor fails to approve the appointee, the commission shall restart the application process.

AMENDATORY SECTION (Amending WSR 10-02-089, filed 1/6/10, effective 2/6/10)

WAC 30-41-030 Compensation. The poet laureate shall receive compensation at a level determined by the ~~((commission))~~ executive director. Travel expenses shall be provided in accordance with RCW 43.03.050 and 43.03.060.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 30-41-040	Term limits.
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AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-44-010 Scope of this chapter. This chapter contains general rules affecting the governor's arts and heritage awards (~~((GAHA) program eligibility, review criteria, and nomination requirements. Further rules are in chapter 30-01 WAC (Washington state arts commission), chapter 30-08 WAC (Practice and procedure), and chapter 30-12 WAC (General rules))).~~

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-44-020 Program purpose. The governor's arts and heritage awards recognize((s)) those individuals and organizations who have contributed significantly to the arts and cultural development of the state of Washington. ~~((The governor's heritage awards recognizes those individuals and organizations who have contributed significantly to the cultural heritage and traditional arts of the state of Washington.))~~

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-44-030 Eligibility. (1) In order for the commission to consider an individual or organization for a governor's arts or heritage award, the nominee must:

~~((1))~~ (a) Be a current resident of the state of Washington, or have been a resident of the state of Washington during the time the contributions were made and/or achievements accomplished;

~~((2))~~ (b) Not have been a previous individual recipient;

(c) Not have been a previous organizational recipient within the last twenty years.

(2) The commission may establish additional eligibility requirements to be published in application guidelines.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

WAC 30-44-040 (~~(Nomination form.)~~) Application and presentation of awards. ~~((1) Public notice of nominations will be made through the media and in other agency publications. Nomination forms are available from the commission and published with the program guidelines.~~

~~(2) Nomination forms shall be sent by direct mail to every Washington address on the agency mailing list, and to those who request a nomination form.~~

~~(3) All nomination forms must be completed and submitted in the format prescribed by the commission. Nominations must be submitted by the deadline determined by the commission.~~

~~(4) The commission may recommend individuals or organizations not nominated in a current year, but who have been nominated in past years.)~~ (1) Applications are managed pursuant to WAC 30-12-017 (Applications) and WAC 30-12-030 (Panels), unless otherwise noted in this section.

(2) The panel may recommend individuals or organizations not nominated in a current year, but who have been nominated in past years.

The board shall review the panel's recommendations for nominations and advise the governor of its decisions. The governor has final approval authority.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 30-44-050 Nomination review process.

WAC 30-44-060 Nomination review criteria.