

**WSR 11-23-100**  
**EXPEDITED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**

[Filed November 18, 2011, 10:28 a.m.]

Title of Rule and Other Identifying Information: The rules under consideration here are rules of procedure governing administrative hearings before the public employment relations commission (PERC) for cases arising under the Marine Employees Collective Bargaining Act, chapter 47.64 RCW. Specifically, WAC 391-08-001, 391-08-007, 391-08-520, 391-08-630, 391-08-640, 391-08-650, 391-08-670, 391-25-002, 391-35-002, 391-45-002, 391-55-002, 391-55-200, 391-65-002, 391-65-110, and 391-95-002 are each amended to clarify that Title 391 WAC governs cases brought under chapter 47.64 RCW. New sections WAC 391-25-674, 391-35-254, 391-35-344, 391-45-394, and 391-65-075 are adopted to clarify that the marine employees commissioners will hear and process appeals of agency decision brought under chapter 47.64 RCW. Title 316 WAC is repealed.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Dario de la Rosa, PERC, 112 Henry Street, Suite 300, P.O. Box 40919, Olympia, WA 98504-0919, AND RECEIVED BY February 1, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposals clarify that Title 391 WAC governs cases filed under chapter 47.64 RCW and filed with PERC are governed by the administrative rules promulgated by PERC, Title 391 WAC.

Reasons Supporting Proposal: Chapter 16, Laws of 2011 1st sp. sess. (2ESSB 5742) transferred administration of chapter 47.64 RCW from the marine employees' commission (MEC) to PERC. Section 16 of 2ESSB 5742 requires that the rules of procedure previously adopted by PERC are to be applied to cases processed under chapter 47.64 RCW, except that the MEC commissioners appointed under that section shall act in place of the PERC commissioners in the event an unfair labor practice, unit clarification, or representation case is appealed. PERC adopted emergency rules on July 13, 2011, to satisfy that directive. WSR 11-15-041. The rules under consideration here are rules of procedure governing administrative hearings before PERC.

Statutory Authority for Adoption: For WAC 391-08-001, 391-08-007, 391-08-520, and 391-08-630 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 49.39.060; for WAC 391-08-640 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.080, 49.39.060; for WAC 391-08-650 and 391-08-670 is RCW 28B.52.080, 34.05.220, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 49.39.060; for

WAC 391-25-002 is RCW 28B.52.080, 41.06.340, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.080, 49.39.060; for WAC 391-25-034 and 391-25-674 is RCW 41.58.050, 41.58.065; for WAC 391-35-002 is RCW 28B.52.080, 41.06.340, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.080, 49.39.060; for WAC 391-25-254 and 391-25-344 is RCW 41.58.050, 41.58.065; for WAC 391-45-002 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.120, 49.39.060; for WAC 391-45-394 is RCW 41.58.050, 41.58.065; for WAC 391-55-002 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.56.065 [41.58.065], 41.59.110, 41.76.060, 41.80.090, 49.39.060; for WAC 391-55-200 is RCW 41.56.090, 41.58.050, 41.58.065, 47.64.300, 74.39A.-270; for WAC 391-65-002 and 391-65-110 is RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, 49.39.060; for WAC 391-65-074 is RCW 41.58.050, 41.58.065; for WAC 391-95-002 is RCW 28B.52.080, 41.06.340, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 49.39.060; and for Title 316 WAC repeal is RCW 41.58.065.

Statute Being Implemented: RCW 41.56.085 and 47.64.300.

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

Name of Agency Personnel Responsible for Drafting: Dario de la Rosa, P.O. Box 40919, Olympia, WA 98504-0919, (360) 570-7328; Implementation and Enforcement: Cathleen Callahan, P.O. Box 40919, Olympia, WA 98504-0919, (360) 570-7312.

November 15, 2011

Dario de la Rosa

Representation Case Administrator

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 316-02-001	Application and scope of chapter 316-02 WAC.
WAC 316-02-003	Policy—Construction—Waiver.
WAC 316-02-005	Commission policy—Labor relations.
WAC 316-02-007	Definitions.
WAC 316-02-010	Appearance and practice before commission—Who may appear.
WAC 316-02-020	Appearance and practice before commission—Standards of conduct.
WAC 316-02-030	Appearance and practice before commission—Appearance by former employee of commission or

	former member of attorney general's staff.	WAC 316-02-470	Evidence—Excerpts from documentary evidence.
WAC 316-02-040	Appearance and practice before commission—Former employee as witness.	WAC 316-02-490	Evidence—Refusal of witness to answer.
WAC 316-02-100	Service of process—Computation of time.	WAC 316-02-500	Declaratory rulings authorized.
WAC 316-02-103	Service of process—Additional time after service by mail.	WAC 316-02-510	Declaratory orders—Petition.
WAC 316-02-105	Service of process—Extension of time.	WAC 316-02-520	Declaratory orders—Rights and disposition.
WAC 316-02-110	Service of process—By whom served.	WAC 316-02-560	Intervention and consolidation of proceedings.
WAC 316-02-120	Service of process—Upon whom served.	WAC 316-02-600	Adjudicative proceedings (contested cases)—Exceptions.
WAC 316-02-135	Service of process—Method and completion of service on parties.	WAC 316-02-610	Adjudicative proceedings—Commencement.
WAC 316-02-150	Service of process—Filing with commission.	WAC 316-02-620	Adjudicative proceedings—Denial of application.
WAC 316-02-160	Service of process—Opportunity for hearing.	WAC 316-02-630	Adjudicative proceedings—Commission action upon filing.
WAC 316-02-170	Service of process—Notice of hearing.	WAC 316-02-640	Adjudicative proceedings—Ex parte communications.
WAC 316-02-180	Service of process—Continuances.	WAC 316-02-650	Commission decisions in adjudicative proceedings—Form and content.
WAC 316-02-200	Definition of issues—Before hearing.	WAC 316-02-660	Commission decisions in adjudicative proceedings—Service.
WAC 316-02-210	Definition of issues—Pre-hearing conference authorized.	WAC 316-02-700	Commission structure.
WAC 316-02-220	Definition of issues—Record of action taken during pre-hearing conference.	WAC 316-02-800	Commission records—Public access.
WAC 316-02-230	Summary judgment.	WAC 316-02-820	Commission offices.
WAC 316-02-300	Subpoenas—Discovery.	WAC 316-02-900	Petitions for rule making—Who may petition.
WAC 316-02-400	Evidence—Examination of witnesses.	WAC 316-02-910	Petitions for rule making—Form.
WAC 316-02-410	Evidence—Application of rules of evidence.	WAC 316-02-920	Petitions for rule making—Commission must consider.
WAC 316-02-420	Evidence—Objections and rulings.	WAC 316-02-930	Petitions for rule making—Notice of disposition.
WAC 316-02-440	Evidence—Official notice.	<b><u>REPEALER</u></b>	
WAC 316-02-450	Evidence—Stipulations and admissions of record.	The following chapter of the Washington Administrative Code is repealed:	
WAC 316-02-460	Evidence—Submission of documentary evidence.	WAC 316-25-001	Scope—Contents—Other rules.

WAC 316-25-010	Petition for investigation of a question concerning representation of employees—Who may file.	WAC 316-25-570	Procedure following inconclusive election.
WAC 316-25-030	Petition—Time for filing.	WAC 316-25-590	Filing and service of objections.
WAC 316-25-050	Petition form—Number of copies—Filing—Service.	WAC 316-25-610	Procedure where no objections are filed.
WAC 316-25-070	Petition contents.	WAC 316-25-630	Procedure where objections are filed.
WAC 316-25-090	Contents of petition filed by department.	WAC 316-25-650	Briefs and written arguments on objections.
WAC 316-25-110	Supporting evidence.	WAC 316-25-670	Commission action on objections.
WAC 316-25-130	List of employees.		
WAC 316-25-140	Notice to employees.		
WAC 316-25-150	Amendment and withdrawal.		
WAC 316-25-170	Intervention—By incumbent representative.		
WAC 316-25-190	Intervention—By organization other than incumbent.		
WAC 316-25-210	Showing of interest confidential.		
WAC 316-25-220	Prehearing conferences.		
WAC 316-25-230	Election agreements.		
WAC 316-25-250	Cross-check agreements.		
WAC 316-25-270	Supplemental agreements.		
WAC 316-25-290	Notice of hearing.		
WAC 316-25-310	Hearings—Who shall conduct.		
WAC 316-25-330	Authority of hearing officer.		
WAC 316-25-350	Hearings—Nature and scope.		
WAC 316-25-370	Blocking charges—Suspension of proceedings—Request to proceed.		
WAC 316-25-390	Proceedings before a hearing officer.		
WAC 316-25-410	Cross-check of records.		
WAC 316-25-430	Notice of election.		
WAC 316-25-450	Disclaimers.		
WAC 316-25-470	Electioneering.		
WAC 316-25-490	Election procedures—Balloting.		
WAC 316-25-510	Challenged ballots.		
WAC 316-25-530	Votes needed to determine election.		
WAC 316-25-550	Tally sheet.		

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 316-35-001	Scope—Contents—Other rules.
WAC 316-35-010	Petition for clarification of an existing bargaining unit—Who may file.
WAC 316-35-030	Petition form—Number of copies—Filing—Service.
WAC 316-35-050	Petition contents.
WAC 316-35-070	Amendment and withdrawal.
WAC 316-35-090	Notice of hearing.
WAC 316-35-110	Consolidation of proceedings.
WAC 316-35-130	Hearings—Who shall conduct.
WAC 316-35-150	Authority of hearing officer.
WAC 316-35-160	Prehearing conferences.
WAC 316-35-170	Hearings—Nature and scope.
WAC 316-35-190	Proceedings before a hearing officer.
WAC 316-35-210	Proceedings before the commission—Petition for review.
WAC 316-35-230	Filing and service of cross-petition for review.
WAC 316-35-250	Commission action.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 316-45-001	Scope—Contents—Other rules.
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WAC 316-45-003	Unfair labor practices— Defined.	WAC 316-55-005	Impasse procedures—Adop- tion.
WAC 316-45-010	Complaint charging unfair labor practices—Who may file.	WAC 316-55-010	Resolution of impasses— Request for mediation.
WAC 316-45-020	Unfair labor practice com- plaint—Time limitations.	WAC 316-55-020	Mediation request—Infor- mation required.
WAC 316-45-030	Complaint—Number of cop- ies—Filing—Service.	WAC 316-55-030	Impasse resolution— Appointment of mediator.
WAC 316-45-050	Contents of complaint charg- ing unfair labor practices.	WAC 316-55-050	Impasse resolution—Medi- ation—Submission of written proposals.
WAC 316-45-070	Amendment.	WAC 316-55-070	Impasse resolution—Func- tion of mediator.
WAC 316-45-090	Withdrawal.	WAC 316-55-090	Impasse resolution—Confi- dential nature of function.
WAC 316-45-110	Initial processing of com- plaint.	WAC 316-55-160	Salary survey.
WAC 316-45-130	Examiner—Who may act.	WAC 316-55-170	Waiver of mediation.
WAC 316-45-150	Authority of examiner.	WAC 316-55-500	Binding arbitration.
WAC 316-45-170	Notice of hearing.	WAC 316-55-525	Conduct of interest arbitra- tion.
WAC 316-45-190	Answer—Filing and service.	WAC 316-55-600	Central filing of agreements.
WAC 316-45-210	Answer—Contents and effect of failure to answer.		
WAC 316-45-230	Amendment of answer.		
WAC 316-45-250	Motion to make complaint more definite and certain.		
WAC 316-45-270	Hearings—Nature and scope.		
WAC 316-45-290	Briefs and proposed findings.		
WAC 316-45-310	Unfair labor practice—Deci- sion.		
WAC 316-45-330	Withdrawal or modification of examiner decision.		
WAC 316-45-350	Petition for review of exam- iner decision.		
WAC 316-45-370	Filing and service of cross- petition for review.		
WAC 316-45-390	Commission action.		
WAC 316-45-410	Unfair labor practice reme- dies.		
WAC 316-45-430	Motion for temporary relief.		
WAC 316-45-550	Collective bargaining—Man- datory subjects.		

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 316-65-001	Scope—Contents—Other rules.
WAC 316-65-005	Grievance defined.
WAC 316-65-010	Grievance—Who may file.
WAC 316-65-020	Grievances—Arbitration request—Limitations.
WAC 316-65-030	Grievance arbitration—Fil- ing—Service.
WAC 316-65-050	Grievance arbitration—Con- tents of request.
WAC 316-65-060	Amendment of grievance.
WAC 316-65-070	Grievance arbitration—Des- ignation of arbitrator.
WAC 316-65-080	Grievance arbitration— Notice of hearing.
WAC 316-65-150	Grievance arbitration— Expenses.
WAC 316-65-510	Intervention and consolida- tion of grievances.
WAC 316-65-515	Conduct of grievance arbitra- tion proceedings.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 316-55-001	Scope—Contents—Other rules.
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WAC 316-65-525	Grievance hearing waiver.	WAC 316-75-250	Proceedings before the hearing officer.
WAC 316-65-530	Order of proceedings and evidence.	WAC 316-75-270	Proceedings before the commission—Petition for review.
WAC 316-65-535	Arbitration in the absence of a party.	WAC 316-75-310	Implementation.
WAC 316-65-538	Withdrawal of grievance.		
WAC 316-65-540	Closing of hearing.		
WAC 316-65-545	Grievance arbitration decision.		
WAC 316-65-550	Petition for review of commissioner decision.	WAC 316-85-001	Scope—Contents—Other rules.
WAC 316-65-555	Commission action.	WAC 316-85-010	Policy—Purpose.
WAC 316-65-560	Grievance arbitration remedies.	WAC 316-85-020	Salary survey—Content—Coverage.
WAC 316-65-600	Other law.	WAC 316-85-030	Salary survey—Geographic limits.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 316-75-001	Scope—Contents—Other rules.	WAC 316-85-040	Salary survey—Timing.
WAC 316-75-010	Union security—Obligation of exclusive bargaining representative.	WAC 316-85-050	Washington state ferry system employee data required.
WAC 316-75-030	Union security—Assertion of right of nonassociation.	WAC 316-85-060	Salary survey—Conduct.
WAC 316-75-050	Union security—Response by exclusive bargaining representative.	WAC 316-85-070	Preliminary salary survey findings—Public review.
WAC 316-75-070	Union security—Filing of dispute with commission.	WAC 316-85-080	Salary survey—Final report.
WAC 316-75-090	Union security—Petition form—Number of copies—Filing—Service.	WAC 316-85-090	Additional salary survey findings.
WAC 316-75-110	Union security—Contents of petition.	WAC 316-85-100	Salary survey report—Public documents.
WAC 316-75-130	Union security—Escrow of disputed funds by department.		
WAC 316-75-150	Union security—Investigation—Settlement.		
WAC 316-75-170	Union security—Notice of hearing.		
WAC 316-75-190	Union security—Hearings—Who shall conduct.		
WAC 316-75-210	Authority of hearing officer.		
WAC 316-75-230	Hearings—Nature and scope.		

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-08-001 Application and scope of chapter 391-08 WAC.** Chapter 391-08 WAC has been added to the Washington Administrative Code by the public employment relations commission pursuant to the authority of section 12, chapter 288, Laws of 1975 1st ex. sess. (RCW 41.59.110); sections 7, 14 and 20, chapter 296, Laws of 1975 1st ex. sess. (RCW 41.58.050, 28B.52.080 and 41.56.090, respectively); and section 232, chapter 354, Laws of 2002 (RCW 41.06.340); section 15, chapter 356, Laws of 2002 (RCW 41.76.060); ~~((and))~~ section 7, chapter 6, Laws of 2010 (RCW 49.39.060); and section 16, chapter 16 (2ESSB 5742), Laws of 2011 1st sp. sess., to promulgate comprehensive and uniform rules for practice and procedure before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains the model rules of procedure promulgated by the chief administrative law judge to regulate adjudicative proceedings under chapters 391-25, 391-35, 391-45 and 391-95 WAC, except:

(a) WAC 10-08-035, which is replaced by detailed requirements in WAC 391-25-070, 391-25-090, 391-35-050, 391-45-050, and 391-95-110;

(b) WAC 10-08-050, which relates to office of administrative hearings procedures inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-083, which is replaced by detailed requirements in WAC 391-08-010;

(d) WAC 10-08-110, which is replaced by detailed requirements in WAC 391-08-120;

(e) WAC 10-08-120, which is replaced by detailed requirements in WAC 391-08-040, 391-08-300 and 391-08-310;

(f) WAC 10-08-140, which is limited by WAC 391-08-040, 391-08-300 and 391-08-310;

(g) WAC 10-08-150, which is limited by WAC 391-08-315;

(h) WAC 10-08-211, which is replaced by WAC 391-08-640 and detailed requirements in WAC 391-25-390, 391-25-391, 391-25-590, 391-25-630, 391-25-650, 391-25-660, 391-25-670, 391-35-210, 391-35-250, 391-45-350, 391-45-390, 391-95-270, and 391-95-290;

(i) WAC 10-08-230, which is replaced by detailed requirements in WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, 391-25-270, 391-35-070, 391-35-080, 391-45-070, 391-45-090, 391-45-260, and 391-95-170; and

(j) WAC 10-08-250, 10-08-251, and 10-08-252 which are replaced by detailed requirements in WAC 391-08-520.

(2) Chapter 391-25 WAC, which regulates representation proceedings.

(3) Chapter 391-35 WAC, which regulates unit clarification proceedings and contains some well-established unit determination standards in a subchapter of rules beginning at WAC 391-35-300.

(4) Chapter 391-45 WAC, which regulates unfair labor practice proceedings.

(5) Chapter 391-55 WAC, which regulates the resolution of impasses in collective bargaining.

(6) Chapter 391-65 WAC, which regulates grievance arbitration and grievance mediation proceedings.

(7) Chapter 391-95 WAC, which regulates union security nonassociation proceedings.

In the event of a conflict between a general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

**AMENDATORY SECTION** (Amending WSR 90-06-070, filed 3/7/90, effective 4/7/90)

**WAC 391-08-007 Definitions.** As used in Title 391 WAC:

(1) "Agency" means the public employment relations commission, its officers and agents;

(2) "Commission" means the public employment relations commission;

(3) "Executive director" means the officer of that title appointed by the commission pursuant to RCW 41.58.015(2);

(4) "Labor dispute" means any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing,

maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(5) "Marine employees' commission" means the marine employees' commission appointed under section 16, chapter 16 (2ESSB 5742), Laws of 2011 1st sp. sess.

(6) "Presiding officer" means an agency official(s), examiner, hearing officer or other person authorized to act on behalf of the agency.

**AMENDATORY SECTION** (Amending WSR 98-14-112, filed 7/1/98, effective 8/1/98)

**WAC 391-08-520 Declaratory orders.** Any person may petition the commission for a declaratory order, under RCW 34.05.240, with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the commission. For purposes of this section, the term person includes natural persons, employee organizations, and employers.

(1) A petition for a declaratory order shall generally adhere to the following form:

(a) At the top of the page shall appear the wording "Before the Public Employment Relations Commission," a caption setting out "In the Matter of the Petition of (name of petitioner to be inserted) for a Declaratory Order," and the title "Petition."

(b) The body of the petition shall set out, in numbered paragraphs:

(i) The name and address of the petitioner and the name and address, if any, of the representative appearing on behalf of the petitioner.

(ii) The name(s) and address(es) of any other party which the petitioner seeks to have bound by any declaratory order issued by the commission, and the name(s) and address(es) of their representatives, if known.

(iii) The rule(s), order(s) or statute(s) from which the controversy arises.

(iv) The facts which the petitioner wishes the commission to consider in issuing a declaratory order.

(v) The issues which the petitioner wishes the commission to address in its order.

(vi) The relief requested by the petitioner.

(vii) The reasons on which the petitioner relies to show that: Uncertainty necessitating resolution exists; there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion; the uncertainty adversely affects the petitioner; and the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested.

(c) The petition shall be filed at the commission's Olympia office as required by WAC 391-08-120(1), and copies shall be served on other parties named in the petition as required by WAC 391-08-120 (3) and (4).

(2) Within fifteen days after receipt of a petition for a declaratory order, the executive director or designee shall give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person he

or she deems desirable. The notice shall establish a deadline for necessary parties other than the petitioner to file written consent to the determination of the matter by a declaratory order.

(3) The petition and any responses from parties shall be forwarded to the commission for consideration. The commission shall not issue a declaratory order if:

(a) The matter is or could have been the subject of any other adjudicative proceeding before the commission; or

(b) A necessary party whose rights would be substantially prejudiced does not consent, in writing, to the determination of the matter by a declaratory order.

(4) The commission may consider the petition without argument and shall, within thirty days after receipt of the petition, do one of the following:

(a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances;

(b) Set a reasonable time and place for a hearing to be held within ninety days after receipt of the petition, including submission of evidence by the parties if deemed necessary by the commission, or submission of written argument upon the matter if the material facts are not in dispute. The commission shall give seven days or more advance written notice to the petitioner and other persons who have been given notice of the petition pursuant to subsection (2) of this section of the time, date, and place for the hearing or submission and of the issues it will be considering;

(c) Set a specified time within ninety days after receipt of the petition by which it will enter a declaratory order; or

(d) Decline to enter a declaratory order, stating the reasons for its action.

(5) The commission may extend the time limits of subsection (4)(b) and (c) of this section, for good cause.

(6) The commission may, at any time before taking final action on a petition under this section, request submission of additional facts or argument, including setting the case for oral argument.

(7) If the commission proceeds in the manner provided in subsection (4)(b) of this section, it shall within a reasonable time after conclusion of the proceeding:

(a) Issue a declaratory order; or

(b) Notify the petitioner and any other party to the proceeding that no declaratory order will be issued and state the reasons for such action.

(8) A declaratory order entered by the commission or a decision to decline to enter a declaratory order shall be in writing, and shall be served upon all parties identified in subsection (2) of this section. Each declaratory order shall contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

(9) A declaratory order has the same status as any other order entered in an adjudicative proceeding conducted by the commission.

(10) In the event a declaratory order is filed involving the application of the provisions of chapter 47.64 RCW, the marine employees' commission shall act in place of the commission.

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

**WAC 391-08-630 Agency structure—Substitution for executive director.** (1) The public employment relations commission and its staff maintain an impartial role in all proceedings pending before the agency.

(2) The commission consists of three citizen members appointed by the governor with the advice and consent of the senate, pursuant to RCW 41.58.010. Commission members serve on a part-time basis only. All commission members represent the interests of the public. The commission reserves to itself a policy-making and appellate function.

(3) The executive director appointed by the commission pursuant to RCW 41.58.015(2) is the full-time agency head, with authority to act in administrative and personnel matters. Authority is also delegated to the executive director to make substantive decisions in certain types of cases.

(4) The commission's professional staff is appointed pursuant to RCW 41.58.015(3). A "multifunctional" staffing pattern is used, whereby individual members of the commission's professional staff are assigned from time to time to conduct any or all of the types of dispute resolution services provided by the agency. Authority is delegated to members of the professional staff to make decisions as "examiner" under chapters 391-45 and 391-95 WAC. The executive director may also delegate authority to members of the professional staff to make decisions in certain situations under chapters 391-25 and 391-35 WAC.

(5) In the event the executive director is disqualified from participation in a decision, the most senior (in terms of length of service with this agency) dispute resolution manager authorized to act as the designee of the executive director to make preliminary rulings on unfair labor practice cases under WAC 391-45-110, who has not been directly involved in the particular circumstances shall make decisions and rulings otherwise required of the executive director. Thereafter, this authority passes to the other dispute resolution managers in agency seniority order.

(6) The marine employees' commission consists of three citizen members appointed by the governor with the advice and consent of the senate, pursuant to and consistent with section 16, chapter 16 (2ESSB 5742), Laws of 2011 1st sp. sess.

AMENDATORY SECTION (Amending WSR 08-04-059, filed 1/31/08, effective 4/1/08)

**WAC 391-08-640 Adjudicative proceedings—Appeals.** Actions by the executive director and other agency staff members in adjudicative proceedings under the Administrative Procedure Act (cases under chapters 391-25, 391-35, 391-45 and 391-95 WAC) are taken under authority delegated by the commission.

(1) The parties shall have the right to appeal to the commission, as follows:

(a) Under chapter 391-25 WAC, a direction of election or direction of cross-check and other rulings in the proceedings up to the issuance of a tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the election or cross-check.

(b) Under chapter 391-25 WAC, an order issued under WAC 391-25-390 or 391-25-510 and any rulings in the proceedings up to the issuance of the order, as well as rulings that the employer or employees are subject to the jurisdiction of the commission, may be appealed to the commission under WAC 391-25-660.

(c) Under chapter 391-35 WAC, an order issued under WAC 391-35-190 and any rulings in the proceedings up to the issuance of the order may be appealed to the commission under WAC 391-35-210.

(d) Under chapter 391-45 WAC, an order issued under WAC 391-45-110(1) or 391-45-310 and any rulings in the proceedings up to the issuance of the order may be appealed to the commission under WAC 391-45-350.

(e) Under chapter 391-95 WAC, an order issued under WAC 391-95-150(1) or 391-95-250 and any rulings in the proceedings up to the issuance of the order may be appealed to the commission under WAC 391-95-270.

(2) For cases decided under chapter 47.64 RCW, the marine employees' commission shall act in place of the commission.

(3) The commission will only consider amicus (friend of the forum) briefs filed in conformity with this subsection.

(a) The person or organization desiring to file an amicus brief must:

(i) Obtain a copy of the decision on appeal, the notice of appeal, and the briefs of the parties;

(ii) Limit any amicus brief to particular issues on appeal;

(iii) Limit any legal analysis to arguments that differ from those advanced by the parties;

(iv) Exclude restatement or reargument of the facts, except as necessary to legal arguments under (a)(iii) of this subsection;

(v) Limit any amicus brief to twenty-five pages in total length (double-spaced, 12-point type); and

(vi) File the amicus brief with the commission within fourteen days following filing and service of the briefs of the parties, and serve copies of any such brief on each of the original parties in the case.

(b) The commission may extend the deadline for a party wishing to file an amicus brief if the petitioning party demonstrates good cause for such extension.

(c) The original parties to the case may, within fourteen days following the filing and service of an amicus brief, file and serve written responses to the amicus brief.

(d) A person or organization that files an amicus brief does not thereby acquire any right to reply to the responses filed by the original parties to the case.

(e) A person or organization that files an amicus brief does not thereby become a party to the case for purposes of any further proceedings or appeal.

~~((3))~~ (4) The commission may, on its own motion, review any order which is subject to appeal under subsection (1) of this section, by giving written notice to all parties within thirty days following the issuance of the order.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

**WAC 391-08-650 Case docketing and numbering.**

The agency maintains a computerized case docketing system which is used to track and manage all requests for the dispute resolution service provided by the agency.

(1) Each case processed by the agency is identified by a unique number consisting of four components.

(a) The first component, consisting of a five-digit number, indicates the sequential number of cases docketed since the agency commenced operations on January 1, 1976.

(b) The second component, consisting of one alphabetic code, indicates the type of dispute being processed, as follows:

"A" indicates a grievance arbitration proceeding under chapter 391-65 WAC, wherein an agency staff member is to interpret or apply an existing collective bargaining agreement.

"C" indicates a unit clarification proceeding under chapter 391-35 WAC.

"D" indicates a declaratory ruling or declaratory order proceeding under the Administrative Procedure Act, and formerly included proceedings under chapter 391-95 WAC concerning assertion of the right of nonassociation by employees subject to union security obligations.

"E" indicates a representation proceeding under chapter 391-25 WAC.

"F" indicates a fact-finding proceeding under chapter 391-55 WAC, to recommend the terms of a collective bargaining agreement.

"G" indicates a grievance mediation proceeding under chapter 391-55 WAC after January 1, 1996, concerning the interpretation or application of an existing collective bargaining agreement.

"I" indicates an interest arbitration proceeding under chapter 391-55 WAC, to establish the terms of a collective bargaining agreement.

"M" indicates a mediation proceeding under chapter 391-55 WAC, limited after January 1, 1996, to disputes concerning the terms of a collective bargaining agreement.

"N" indicates a proceeding under chapter 391-95 WAC after January 1, 1996, concerning assertion of the right of nonassociation by employees subject to union security obligations.

"P" indicates a request for a list of arbitrators from the commission's dispute resolution panel for grievance arbitration proceedings under chapter 391-65 WAC.

"S" indicates a settlement mediation proceeding for cases under chapters 391-45 and 391-95 WAC.

"U" indicates an unfair labor practice proceeding under chapter 391-45 WAC.

(c) The third component, consisting of a two-digit number, indicates the calendar year in which the case is docketed.

(d) The fourth component, consisting of a five-digit number, indicates the sequential number of the case within the type of dispute identified in the second component, since the agency commenced operations on January 1, 1976.

(2) Cases involving various departments or divisions of an employer entity are docketed under the name of the employer entity.



(3) Cases filed by an employee organization or labor organization are docketed under the name of the organization, even if employees represented by that organization are named individually in the pleadings or are affected by the outcome of the proceedings.

(4) Cases filed by two or more individual employees are docketed separately for each employee.

(5) Cases filed by an individual employee involving multiple respondents are docketed separately for each respondent.

AMENDATORY SECTION (Amending WSR 03-11-029, filed 5/15/03, effective 6/15/03)

**WAC 391-08-670 Decision numbering—Citation of cases—Indexing of decisions.** (1) Each decision issued by the agency in an adjudicative proceeding under the Administrative Procedure Act is assigned a unique number consisting of two or three components, as follows:

(a) The first component, consisting of a number, indicates the sequential number of adjudicative proceedings in which one or more decisions has been issued since the agency commenced operations on January 1, 1976.

(b) The second component (where appropriate) consisting of an alphabetic code in ascending alphabetical order, indicates the second and subsequent decisions issued in the case to which the numerical component was originally assigned.

(c) The third component, consisting of a four-letter alphabetic code, indicates the statute under which the decision was issued:

"CCOL" indicates cases decided under chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges).

"EDUC" indicates cases decided under chapter 41.59 RCW (Educational Employment Relations Act).

"FCBA" indicates cases decided under chapter 41.76 RCW (faculty at public four-year institutions of higher education).

"MRNE" (~~((no longer in use) was formerly used to))~~) indicates cases decided under chapter 47.64 RCW, relating to the Washington state ferries system.

"PECB" indicates cases decided under chapter 41.56 RCW (Public Employees' Collective Bargaining Act), including some cases involving port districts.

"PORT" indicates cases decided exclusively under chapter 53.18 RCW (Employment Relations—Collective Bargaining and Arbitration), relating to port districts.

"PRIV" indicates cases decided under chapter 49.08 RCW, relating to private sector employers and employees.

"PSRA" indicates cases decided under RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act).

(2) All citations of agency decisions in subsequent agency decisions, in publications of agency decisions, and in briefs and written arguments filed by parties with the agency shall conform to the formats specified in this section:

GENERAL RULE: Citations shall list only the name of the employer *italicized*, the word "Decision" followed by the decision number, and the statute and year the decision was issued (in

parenthesis).

Examples: *City of Roe*, Decision 1234 (PECB, 1992)  
*City of Roe*, Decision 1234-A (PECB, 1993)  
*City of Roe*, Decision 1234-B (PECB, 1994)

EXCEPTION: For decisions in which an employee organization or labor organization was named as the respondent in an unfair labor practice case, the citation shall list the name of the union (in parenthesis) following the name of the employer.

Example: City of Roe (*Doe Union*), Decision 2345 (PECB, 1995)

(3) The agency encourages the publication and indexing of its decisions by private firms, but does not contribute financial support to any such firm and declines to declare any private firm as the "official reporter" of agency decisions.

(4) To satisfy the requirements of RCW 42.17.260(5), the agency publishes its decisions, together with a search engine, on its web site at: "www.perc.wa.gov".

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-25-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

~~((5))~~ (6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher edu-

cation) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

~~((6))~~ (7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

#### NEW SECTION

**WAC 391-25-034 Special provision—Marine employees.** For marine employees:

(1) The "window" period specified in WAC 391-25-030(1) shall be computed as not more than one hundred twenty nor less than ninety days prior to the stated expiration date of the collective bargaining agreement.

(2) The "protected" period specified in WAC 391-25-030 (1)(c) shall be computed as ninety days.

(3) The duration of any collective bargaining agreement negotiated under chapter 47.64 RCW shall not exceed one fiscal biennium.

#### NEW SECTION

**WAC 391-25-674 Special provision—Marine employees.** If there are objections under WAC 391-25-590 or an order is appealed under WAC 391-25-660 involving employees covered by chapter 47.64 RCW, the marine employees' commission shall act in place of the commission, and the entire record in the proceedings shall be transmitted to the marine employees' commission members. The marine employees' commission may request the parties to appear before it to make oral arguments as to any or all of the issues in the matter. The marine employees' commission shall determine the objections or appeal and any challenged ballots referred to the marine employees' commission pursuant to WAC 391-25-510, and shall issue appropriate orders.

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-35-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community

Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

~~((5))~~ (6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

~~((6))~~ (7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

#### NEW SECTION

**WAC 391-35-254 Special provision—Marine employees.** If an order is appealed under WAC 391-35-210 involving employees covered by chapter 47.64 RCW, the marine employees' commission shall act in place of the commission, and the entire record in the proceedings shall be transmitted to the marine employees' commission members. The marine employees' commission may request the parties to appear before it to make oral arguments as to any or all of the issues in the matter. The marine employees' commission shall determine the status of each position, classification or group covered by the appeal, and shall issue appropriate orders.

#### NEW SECTION

**WAC 391-35-344 Special provision—Marine employees.** The captains of a Washington state ferry vessel, also known as the master of a vessel or the commanding officer, are "supervisors," and shall be placed in a separate bargaining in accordance with section 8, chapter 16 (2ESSB 5742), Laws of 2011 1st sp. sess. and WAC 391-35-340.

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-45-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

~~((5))~~ (6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

~~((6))~~ (7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (Private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

#### NEW SECTION

**WAC 391-45-394 Special provision—Marine employees.** If an order is appealed under WAC 391-45-350 involving employees covered by chapter 47.64 RCW, the marine employees' commission shall act in place of the commission, and the entire record in the proceedings shall be transmitted to the marine employees' commission members. The marine employees' commission may request the parties to appear before it to make oral arguments as to any or all of the issues in the matter. The marine employees' commission shall determine the status of each position, classification or group covered by the appeal, and shall issue appropriate orders.

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-55-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

Special provisions relating to bargaining units eligible for interest arbitration are set forth beginning with WAC 391-55-200.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter. Special provisions relating to fact finding are set forth beginning with WAC 391-55-300.

(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

~~((5))~~ (6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

~~((6))~~ (7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-55-200 Interest arbitration—Certification of issues.** (1) If a dispute involving a bargaining unit eligible for interest arbitration under RCW 41.56.028, 41.56.029, 41.56.030(7), 41.56.475, 41.56.492, 41.56.496, 41.56.510, 47.64.300, or 74.39A.270 (2)(c) has not been settled after a reasonable period of mediation, and the mediator is of the opinion that his or her further efforts will not result in an agreement, the following procedure shall be implemented:

(a) The mediator shall notify the parties of his or her intention to recommend that the remaining issues in dispute be submitted to interest arbitration.

(b) Within seven days after being notified by the mediator, each party shall submit to the mediator and serve on the other party a written list (including article and section references to parties' latest collective bargaining agreement, if any) of the issues that the party believes should be advanced to interest arbitration.

(2) The mediator shall review the lists of issues submitted by the parties.

(a) The mediator shall exclude from certification any issues that have not been mediated.

(b) The mediator shall exclude from certification any issues resolved by the parties in bilateral negotiations or mediation, and the parties may present those agreements as "stipulations" in interest arbitration under RCW 41.56.465 (1)(b), 41.56.475 (2)(b), or 41.56.492 (2)(b).

(c) The mediator may convene further mediation sessions and take other steps to resolve the dispute.

(3) If the dispute remains unresolved after the completion of the procedures in subsections (1) and (2) of this section, interest arbitration shall be initiated, as follows:

(a) Except as provided in (b) of this subsection, the mediator shall forward his or her recommendation and a list of unresolved issues to the executive director, who shall consider the recommendation of the mediator. The executive director may remand the matter for further mediation. If the executive director finds that the parties remain at impasse, the executive director shall certify the unresolved issues for interest arbitration.

(b) For a bargaining unit covered by RCW 41.56.492, the mediator shall certify the unresolved issues for interest arbitration.

AMENDATORY SECTION (Amending WSR 10-20-172, filed 10/6/10, effective 11/6/10)

**WAC 391-65-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

~~((5))~~ (6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

~~((6))~~ (7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

NEW SECTION

**WAC 391-65-075 Special provision—Marine employees.** Grievance arbitration cases filed under chapter 47.64 RCW shall be mediated by agency staff under chapter 391-55 WAC. Absent settlement, the grievance arbitration proceeding may be conducted by the marine employees' commission in a manner consistent with this chapter.

AMENDATORY SECTION (Amending WSR 08-04-059, filed 1/31/08, effective 4/1/08)

**WAC 391-65-110 Grievance arbitration—Conduct of proceedings.** The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises, subject to the following:

(1) Arbitration cases handled by members of the agency staff shall be kept in the public files of the agency.

~~((2))~~ ~~((The services of a member of the commission staff as arbitrator shall be subject to interruption for reassignment of the staff member to other functions of the agency having a higher priority.~~

~~(3))~~ Except as provided in subsections (1) and (2) of this section, all arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" as last amended with approval of the Federal Mediation and Conciliation Service.

~~((4))~~ (3) Rulings, actions, and decisions issued by staff arbitrators under this chapter shall not be subject to appeal to the commission or the marine employees' commission.

NEW SECTION

**WAC 391-95-002 Sequence and numbering of rules—Special provisions.** This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (Collective bargaining—Academic personnel in community colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

(6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

(7) Special provisions relating to chapter 49.39 RCW (Symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

**WSR 11-23-112**  
**EXPEDITED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Commission Docket A-111722—Filed November 21, 2011, 8:03 a.m.]

Title of Rule and Other Identifying Information: This rule making would revise adoption-by-reference dates in Title 480 WAC to incorporate the most recent versions of adopted federal rules and other adopted publications and correct reference, grammatical, and punctuation errors.

Affected chapters 480-14, 480-15, 480-30, 480-31, 480-62, 480-70, 480-75, 480-90, 480-93, 480-100, 480-108, 480-120, and 480-123 WAC.

<b>Proposed Rule Changes</b>			
<b>Adoption by Reference Date Changes and Other Changes</b>			
<b>Docket A-111722</b>			
<b>Chapter 480-14 WAC, Motor carriers excluding household goods carriers and common brokers.</b>			
Amend	480-14-999	Adoption by reference.	<ol style="list-style-type: none"> <li>1. Amends WAC 480-14-999(1) to add reference to C.F.R. Part 173 and remove reference to Part 395. Also amends title of WAC 480-14-250 referenced in WAC 480-14-999(2).</li> <li>2. Adoption by reference dates changed as follows:                             <ul style="list-style-type: none"> <li>• <b>Title 49, Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following:                                     <ul style="list-style-type: none"> <li>- Part 171 - General Information, Regulations and Definitions - see Note 1.</li> <li>- Part 172 - Hazardous Materials Table, etc. - see Note 2.</li> <li>- Part 173 - Shippers General Requirements for Shipping and Packages - see Note 3.</li> </ul> </li> </ul> </li> </ol>
<b>Chapter 480-15 WAC, Household goods carriers.</b>			
Amend	480-15-999	Adoption by reference.	<ol style="list-style-type: none"> <li>1. Adoption by reference dates changed as follows:                             <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2011</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following:                                     <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - see Note 5.</li> <li>- Part 379 - Preservation of Records - see Note 6.</li> <li>- Part 380 - Special Training Requirements - see Note 7.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 8.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 9.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 10.</li> <li>- Part 390 - Safety Regulations, General - see Note 11.</li> <li>- Part 391 - Qualification of Drivers - see Note 12.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 13.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 14.</li> </ul> </li> </ul> </li> </ol>

			<ul style="list-style-type: none"> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 15.</li> <li>- Part 397 - Transportation of Hazardous Materials - see Note 16.</li> </ul>
<b>Chapter 480-30 WAC, Auto transportation companies.</b>			
Amend	480-30-999	Adoption by reference.	<ol style="list-style-type: none"> <li>1. Amends WAC 480-30-999 (1)(b) to remove reference to WAC 480-30-121.</li> <li>2. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2011</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following: <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 379 - Preservation of Records - see Note 6.</li> <li>- Part 380 - Special Training Requirements - see Note 7.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 8.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 9.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 10.</li> <li>- Part 390 - Safety Regulations, General - see Note 11.</li> <li>- Part 391 - Qualification of Drivers - see Note 12.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 13.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 14.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 15.</li> <li>- Part 397 - Transportation of Hazardous Materials - see Note 16.</li> </ul> </li> </ul> </li> </ol>
<b>Chapter 480-31 WAC, Private, nonprofit transportation providers.</b>			
Amend	480-31-999	Adoption by reference.	<ol style="list-style-type: none"> <li>1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2011</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following: <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 379 - Preservation of Records - see Note 6.</li> <li>- Part 380 - Special Training Requirements - see Note 7.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 8.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 9.</li> <li>- Part 385 - Safety Fitness Procedures - See Note 10.</li> <li>- Part 390 - Safety Regulations, General - see Note 11.</li> <li>- Part 391 - Qualification of Drivers - see Note 12.</li> </ul> </li> </ul> </li> </ol>

			<ul style="list-style-type: none"> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 13.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 15.</li> <li>- Part 397 - Transportation of Hazardous Materials -see Note 16.</li> </ul>
<b>Chapter 480-62 WAC, Railroad companies—Operations.</b>			
Amend	480-62-200	Roadway worker safety and operating rules and statutes.	1. Amends outdated reference to USC chapter no longer in use and adds reference to C.F.R. Part 211.
Amend	480-62-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following parts: <ul style="list-style-type: none"> <li>- Part 171 - General Information, Regulations, and Definitions - see Note 1.</li> <li>- Part 172 - Emergency Response Information, Training Requirements, and Security Plans - see Note 2.</li> <li>- Part 173 - Shippers General Requirements for Shipments and Packages - see Note 3.</li> <li>- Part 174 - Carriage by Rail - see Note 19.</li> <li>- Part 178 - Specifications for Packagings - see Note 20.</li> <li>- Part 179 - Specifications for Tank Cars - see Note 21.</li> <li>- Part 209 - Railroad Safety Enforcement Procedures - see Note 22.</li> <li>- Part 211 - Rules of Practice - see Note 23.</li> <li>- Part 212 - State Safety Participation Regulations - see Note 24.</li> <li>- Part 213 - Track Safety Standards - see Note 25.</li> <li>- Part 214 - Railroad Workplace Safety - see Note 26.</li> <li>- Part 217 - Railroad Operating Rules - see Note 27.</li> <li>- Part 218 - Railroad Operating Practices - see Note 28.</li> <li>- Part 219 - Control of Alcohol and Drug Use - see Note 29.</li> <li>- Part 220 - Railroad Communications - see Note 30.</li> <li>- Part 221 - Rear-end Marking Device - see Note 31.</li> <li>- Part 225 - Railroads accidents/incidents - see Note 32.</li> <li>- Part 228 - Hours of Service of Railroad Employees - see Note 33.</li> <li>- Part 234 - Grade Crossing Signal System Safety - see Note 34.</li> <li>- Part 239 - Passenger Train Emergency Preparedness - see Note 35.</li> <li>- Part 240 - Qualification and Certification of Locomotive Engineers - see Note 36.</li> <li>- Part 570.6 and 570.7 - Vehicle in Use Inspection Standards - see Note 37.</li> </ul> </li> <li>• <b>Manual on Uniform Traffic Control Devices (MUTCD)</b>, amends the effective date to <b>September 30, 2011</b> - see Note 18.</li> <li>• Amends the effective date of adoption to <b>September 30, 2011</b>, for the following safety standards:</li> </ul>

			<ul style="list-style-type: none"> <li>- <b>ANSI Z308.1-2009, American National Standard for Minimum Requirements for Workplace First Aid Kits</b> - see Note 38.</li> <li>- <b>ANSI/ISEA 207-2006 - American National Standard for High-Visibility Public Safety Vests</b> - see Note 39.</li> </ul>
<b>Chapter 480-70 WAC, Solid waste and/or refuse collection companies.</b>			
Amend	480-70-431	Biomedical waste, adoption of federal regulations.	1. Amends reference of C.F.R. Part 170 through Part 189 to Parts 171 through 180. Parts 170 and 181-189 do not exist.
Amend	480-70-486	Hazardous waste, adoption of federal regulations.	2. Amends reference of C.F.R. Part 170 through Part 189 to Parts 171 through 180. Parts 170 and 181-189 do not exist.
Amend	480-70-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2011</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 40 Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following: <ul style="list-style-type: none"> <li>- Part 262 - Standards Applicable to Generators of Hazardous Waste - see Note 17.</li> </ul> </li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>September 30, 2011</b>, for the following: <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 171 - General Information, Regulations, and Definitions - see Note 1.</li> <li>- Part 172 - Hazardous Materials Table, etc. - see Note 2.</li> <li>- Part 173 - Shippers General Requirements for Shipping and Packages - see Note 3.</li> <li>- Part 379 - Preservation of Records - see Note 6.</li> <li>- Part 380 - Special Training Requirements - see Note 7.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 8.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 9.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 10.</li> <li>- Part 390 - Safety Regulations, General - see Note 11.</li> <li>- Part 391 - Qualification of Drivers - see Note 12.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 13.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 14.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 15.</li> <li>- Part 397 - Transportation of Hazardous Materials - see Note 16.</li> </ul> </li> </ul>



<b>Chapter 480-75 WAC, Hazardous liquid pipelines, safety.</b>			
Amend	480-75-999 (1)(a)	Adoption by reference.	Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 1, 2011</b> - Parts 195 and 199 including all appendices and amendments except for Parts 195.0, 195.1, 199.1, and 199.2 - see Note 40.</li> <li>• <b>The American Society of Mechanical Engineers (ASME) B31.4</b>, 2006 edition, October 20, 2006 - see Note 40.</li> <li>• <b>Section IX of the ASME Boiler and Pressure Vessel Code</b>, 2007 edition, July 2007 - see Note 40.</li> <li>• <b>American Petroleum Institute (API) standard 1104</b>, 20th edition 2005, including errata/addendum July 2007 and errata 2 (December 2008) - see Note 40.</li> <li>• <b>API RP standard 1117</b> Third Edition, July 2008, including errata December 2008 - see Note 40.</li> </ul>
<b>Chapter 480-90 WAC, Gas companies—Operations.</b>			
Amend	480-90-999	Adoption by reference.	1. Adoption by reference date changed as follows: <ul style="list-style-type: none"> <li>• <b>Title 18 Code of Federal Regulations</b>, amends the effective date of adoption to <b>April 1, 2011</b>.</li> </ul>
<b>Chapter 480-93 WAC, Gas companies—Safety.</b>			
Amend	480-93-999 (1)(a)	Adoption by reference.	Adoption by reference date changed as follows: <ul style="list-style-type: none"> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 1, 2011</b>, for Parts 191, 192, 193 and 199, including all appendices and amendments thereto as published by the US Govt. Printing Office. The following sections are not adopted: 191.1, 192.1(a), 193.2001(a), 199.1 - see Note 40.</li> <li>• <b>Section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code</b> - 2007 edition, July 1, 2007 - see Note 40.</li> <li>• <b>American Petroleum Institute (API) standard 1104</b>, 20th edition, October 2005, including errata/addendum July 2007 and errata 2 (2008) - see Note 40.</li> </ul>
<b>Chapter 480-100 WAC, Electric companies.</b>			
Amend	480-100-999	Adoption by reference.	1. Adoption by reference date changed as follows: <ul style="list-style-type: none"> <li>• <b>Title 18 Code of Federal Regulations</b>, amends the effective date of adoption to <b>April 1, 2011</b>.</li> </ul>
<b>Chapter 480-108 WAC, Electric companies—Interconnection with electric generators.</b>			
Amend	480-108-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>National Electrical Safety Code (NESC)</b> - adopts the <b>2012 edition</b>.</li> <li>• <b>Institute of Electrical and Electronics Engineers (IEEE) Standard 519</b>, adopts the <b>2004 edition</b> second printing incorporating errata.</li> <li>• <b>Underwriters Laboratories (UL). Including UL Standard 1741, 2010 version</b> - see Note 41.</li> </ul>

<b>Chapter 480-120 WAC, Telecommunications companies.</b>			
Amend	480-120-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>American National Standards for Telecommunications - "Network Performance Parameters for Dedicated Digital Services - Specifications" - (ANSI 01510) - as of December 29, 1999 and reaffirmed 2008 - no change to current rule.</b></li> <li>• <b>The Institute of Electrical and Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics - as of 2005 - no date change to current rule, minor text change - see Note 42.</b></li> <li>• <b>National Electrical Safety Code, adopts 2012 Version in effect as of August 1, 2011.</b></li> <li>• <b>Title 47 Code of Federal Regulations, except Sections 64.2003 through 64.2009. October 1, 1998 - no change to current rule - see Note 43.</b></li> <li>• <b>Title 47 Code of Federal Regulations, Sections 64.2003 through 64.2009. October 1, 2010 - no change to current rule.</b></li> </ul>
<b>Chapter 480-123 WAC, Universal service.</b>			
Amend	480-123-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service, amends the effective date to January 1, 2011.</b></li> </ul>

**Note**

**1. 49 C.F.R. Part 171, General Information, Regulations, and Definitions - Effective: September 30, 2011:**

- Changes effective September 1, 2010: 75 F.R. 53596: This rule corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions. The amendments are nonsubstantive changes and do not impose new requirements.
- Changes effective September 30, 2010: 75 F.R. 60338: This rule responds to a petition for reconsideration and appeals submitted in response to the February 2, 2010, rule and also corrects several errors that occurred in that rule making. It makes miscellaneous changes to packaging instructions.
- Changes effective January 19, 2011: 76 F.R. 3345: This rule makes amendments to maintain alignment with international standards regarding packaging standards.
- Changes effective July 20, 2011: 76 F.R. 43525: This rule makes miscellaneous amendments to update and clarify certain regulatory requirements. These amendments are intended to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rule making, facilitate international commerce, and simplify the regulations.
- Changes effective September 13, 2011: 76 F.R. 56311: This rule corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions. The amendments are nonsubstantive changes and do not impose new requirements.

**2. 49 C.F.R. Part 172, Hazardous Materials Table, etc. - Effective September 30, 2011:**

- Changes effective September 1, 2010: This rule corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions. The amendments are nonsubstantive changes and do not impose new requirements.
- Changes effective January 19, 2011: Amends the hazardous materials regulations to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport limited quantities, and vessel stowage requirements.
- Changes effective August 19, 2011: Miscellaneous amendments to update and clarify certain regulatory requirements.
- Changes effective September 13, 2011: Corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the hazardous materials regulations.

**3. 49 C.F.R. Part 173, Shippers General Requirements for Shipments and Packages - Effective September 30, 2011:**

- Changes effective September 1, 2010: 75 F.R. 53597: This rule corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions. The amendments are nonsubstantive changes and do not impose new requirements.

- Changes effective September 30, 2010: 75 F.R. 60339: This rule responds to a petition for reconsideration and appeals submitted in response to the February 2, 2010, rule and also corrects several errors that occurred in that rule making. It makes miscellaneous changes to packaging instructions.
- Changes effective January 19, 2011: 76 F.R. 3368-3381: This rule makes amendments to maintain alignment with international standards regarding packaging standards.
- Changes effective February 1, 2011: 76 F.R. 5491-5492: This rule incorporates provisions contained in certain widely used or longstanding cargo tank special permits that are granted to multiple parties and have established safety records.
- Changes effective July 20, 2011: 76 F.R. 43528-43530: This rule makes miscellaneous amendments to update and clarify certain regulatory requirements. These amendments are intended to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rule making, facilitate international commerce, and simplify the regulations.
- Changes effective September 13, 2011: 76 F.R. 56315-56317: This rule corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions. The amendments are nonsubstantive changes and do not impose new requirements.

**4. 49 C.F.R. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs - Effective September 30, 2011:**

- Changes effective September 27, 2011: Final Rule; Technical Amendment. The intended effect of this final rule is to finalize the authority for use of the new CCF and to make a technical amendment to its drug testing procedures by amending a provision of the rule which was inadvertently omitted from a final rule in August 2010.

**5. 49 C.F.R. Part 375, Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - Effective September 30, 2011:**

- Changes effective January 28, 2011: Compliance date for 49 C.F.R. 387.307 (a)(2): Brokers that arrange the transportation of household goods in interstate or foreign commerce must increase their surety bonds or trust funds to the new minimum amount of \$25,000 and have surety companies or trust fund managers file appropriate Forms BMC-84 or BMC-85 with FMCSA no later than January 1, 2012.

**6. 49 C.F.R. Part 379 - Preservation of Records - Effective September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 379 since the UTC last adopted it effective June 30, 2010.

**7. 49 C.F.R. Part 380 - Special Training Requirements - Effective September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 380 since the UTC last adopted it effective June 30, 2010.

**8. 49 C.F.R. Part 382 - Controlled Substance and Alcohol Use Testing - Effective September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 382 since the UTC last adopted it effective June 30, 2010.

**9. 49 C.F.R. Part 383 - Commercial Driver's License Standards; Requirements and Penalties - Effective September 30, 2011:**

- Changes effective July 8, 2011: FMCSA amends the commercial driver's license (CDL) knowledge and skills testing standards and establishes new minimum federal standards for states to issue the commercial learner's permit (CLP). The rule requires that a CLP holder meet virtually the same requirements as those for a CDL holder, meaning that a driver holding a CLP will be subject to the same driver disqualification penalties that apply to a CDL holder. It will enhance safety by ensuring that only qualified drivers are allowed to operate commercial motor vehicles on our nation's highways. States must be in compliance with the requirements in subpart B of Part 384 (49 C.F.R. part 384) by July 8, 2014. Also corrects minor discrepancies regarding section references in the regulatory text of the final rule.

**10. 49 C.F.R. Part 385 - Safety Fitness Procedures - Effective September 30, 2011:**

- Changes effective September 13, 2010: FMCSA amends its April 5, 2010, final rule that established new performance standards for electronic on-board recorders (EOBRs) installed in commercial motor vehicles (CMVs). In response to petitions for reconsideration from Qualcomm Incorporated, XATA Corporation, and a group of industry stakeholders, FMCSA amends requirements relating to the temperature range in which EOBRs must be able to operate, and the connector type specified for the Universal Serial Bus (USB) interface.
- Changes effective July 8, 2011: FMCSA amends the CDL knowledge and skills testing standards and establishes new minimum federal standards for states to issue the CLP. The rule requires that a CLP holder meet virtually the same requirements as those for a CDL holder, meaning that a driver holding a CLP will be subject to the same driver disqualification penalties that apply to a CDL holder. It will enhance safety by ensuring that only qualified drivers are allowed to operate commercial motor vehicles on our nation's highways. States must be in compliance with the requirements in subpart B of Part 384 (49 C.F.R. part 384) by July 8, 2014.

**11. 49 C.F.R. Part 390 - Safety Regulations, General - Effective September 30, 2011:**

- Changes effective October 27, 2010: FMCSA amends its CDL regulations to add to the list of disqualifying offenses a conviction under state or local traffic laws or ordinances that prohibit texting by CDL drivers while operating a CMV, including school bus drivers.

**12. 49 C.F.R. Part 391 - Qualification of Drivers - Effective September 30, 2011:**

- Changes effective October 27, 2010: FMCSA amends its CDL regulations to add to the list of disqualifying offenses a conviction under state or local traffic laws or ordinances that prohibit texting by CDL drivers while operating a CMV, including school bus drivers.

**13. 49 C.F.R. Part 392 - Driving of Commercial Motor Vehicles - Effective September 30, 2011:**

- Changes effective October 27, 2010: FMCSA amends its CDL regulations to add to the list of disqualifying offenses a conviction under state or local traffic laws or ordinances that prohibit texting by CDL drivers while operating a CMV, including school bus drivers.

**14. 49 C.F.R. Part 395 - Hours of Service of Drivers - Effective September 30, 2011:**

- Changes effective September 23, 2010: FMCSA amends its April 5, 2010, final rule that established new performance standards for EOBRs installed in CMVs. In response to petitions for reconsideration from Qualcomm Incorporated, XATA Corporation, and a group of industry stakeholders, FMCSA amends requirements relating to the temperature range in which EOBRs must be able to operate, and the connector type specified for the USB interface.
- Changes effective May 5, 2011: The FMCSA amends its hours-of-service (HOS) regulations to adopt regulatory language consistent with the statutory exemption for certain railroad signal employees operating CMVs in connection with railroad signal work. This is in accordance with the Rail Safety Improvement Act of 2008 (RSIA of 2008), which took effect July 16, 2009.

**15. 49 C.F.R. Part 396 - Inspection, Repair and Maintenance - Effective September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 396 since the UTC last adopted it effective June 30, 2010.

**16. 49 C.F.R. Part 397 - Transportation of Hazardous Materials - Effective September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 397 since the UTC last adopted it effective June 30, 2010.

**17. 40 C.F.R. Part 262 - Standards Applicable to Generators of Hazardous Waste - Effective September 30, 2011:**

- Changes effective July 14, 2006: Corrections to errors in the hazardous waste and used oil regulations.
- Changes effective December 31, 2008: The rule provides a flexible and protective set of regulations that address the specific nature of hazardous waste generation and accumulation in laboratories at colleges and universities, as well as other eligible academic entities formally affiliated with colleges and universities.
- Changes effective June 25, 2009: On January 18, 2009, the office of solid waste (OSW) was reorganized and changed its name to the office of resource conservation and recovery (ORCR).
- Changes effective March 7, 2011: Six technical corrections to an alternative set of hazardous waste generator requirements known as the "Academic Laboratories rule" or "Subpart K" which is applicable to laboratories owned by eligible academic entities.
- Changes effective June 16, 2010: This rule makes technical changes that correct or clarify several parts of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations
- Changes effective August 22, 2011: Minor change to the RCRA hazardous waste manifest regulations that affects those entities that print the hazardous waste manifest form in accordance with EPA's federal printing specifications.

**18. Manual on Uniform Traffic Control Devices (MUTCD), Specific Chapters of Parts 8 and 6 - Effective: September 30, 2011:**

- No changes have been made to the MUTCD since UTC last adopted it effective June 30, 2010.

**19. 49 C.F.R. Part 174, Carriage by Rail - Effective: September 30, 2011:**

- Changes effective July 20, 2011: 76 F.R. 43530-43531: This rule makes miscellaneous amendments to update and clarify certain regulatory requirements. These amendments are intended to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rule making, facilitate international commerce, and simplify the regulations.

**20. 49 C.F.R. Part 178, Specifications for Packagings - Effective: September 30, 2011:**

- Changes effective September 30, 2010: 75 F.R. 60339: This rule responds to a petition for reconsideration and appeals submitted in response to the February 2, 2010, rule and also corrects several errors that occurred in that rule making. It makes miscellaneous changes to packaging instructions.
- Changes effective January 19, 2011: 76 F.R. 3388-3389: This rule makes amendments to maintain

alignment with international standards regarding packaging standards.

- Changes effective July 20, 2011: 76 F.R. 43531-43532: This rule makes miscellaneous amendments to update and clarify certain regulatory requirements. These amendments are intended to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rule making, facilitate international commerce, and simplify the regulations.

**21. 49 C.F.R. Part 179, Specifications for Tank Cars - Effective: September 30, 2011:**

- Changes effective September 1, 2010: 75 F.R. 53597: This rule corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions. The amendments are nonsubstantive changes and do not impose new requirements.

**22. 49 C.F.R. Part 209, Railroad Safety Enforcement Procedures - Effective: September 30, 2011:**

- Changes effective July 27, 2010: 75 F.R. 43842: This rule adjusts the ordinary maximum penalty and the aggravated maximum penalty that it will apply when assessing a civil monetary penalty for a violation of the federal hazardous material transportation laws or a regulation, special permit, or approval issued under those laws.

**23. 49 C.F.R. Part 211, Rules of Practice - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 211 since UTC last adopted it effective June 30, 2010.

**24. 49 C.F.R. Part 212, State Safety Participation Regulations - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 212 since UTC last adopted it effective June 30, 2010.

**25. 49 C.F.R. Part 213, Track Safety Standards - Effective: September 30, 2011:**

- Changes effective April 1, 2011: 76 F.R. 18084-18086: This rule mandates specific requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties.

**26. 49 C.F.R. Part 214, Railroad Workplace Safety - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 214 since UTC last adopted it effective June 30, 2010.

**27. 49 C.F.R. Part 217, Railroad Operating Rules - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 217 since UTC last adopted it effective June 30, 2010.

**28. 49 C.F.R. Part 218, Railroad Operating Practices - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 218 since UTC last adopted it effective June 30, 2010.

**29. 49 C.F.R. Part 219, Control of Alcohol and Drug Use - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 219 since UTC last adopted it effective June 30, 2010.

**30. 49 C.F.R. Part 220, Railroad Communications - Effective: September 30, 2011:**

- Changes effective September 27, 2010: 75 F.R. 59601-59602: This rule amends railroad communications regulations by restricting use of mobile telephones and other distracting electronic devices by railroad operating employees.

**31. 49 C.F.R. Part 221, Rear-end Marking Device - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 221 since UTC last adopted it effective June 30, 2010.

**32. 49 C.F.R. Part 225, Railroads accidents/incidents - Effective: September 30, 2011:**

- Changes effective November 9, 2010: 75 F.R. 68903-68909: This rule revises FRA's existing regulations addressing accident/incident reporting in order to clarify ambiguous regulations and to enhance the quality of information available for railroad casualty analysis. It also revises the FRA Guide for Preparing Accident/Incident Reports (FRA Guide), its accident/incident recording and reporting forms and its Companion Guide: Guidelines for Submitting Accident/Incident Reports by Alternative Methods (Companion Guide).
- Changes effective May 27, 2011: 76 F.R. 30863: This document amends and clarifies the final rule based on FRA's review of the petitions for reconsideration and in order to make necessary technical and clarifying changes.

**33. 49 C.F.R. Part 228, Hours of Service of Railroad Employees - Effective: September 30, 2011:**

- Changes effective August 12, 2011: 76 F.R. 50396-50400: This rule amends FRA hours of service record-keeping regulations, adds substantive hours of service regulations, including maximum on-duty periods, minimum off-duty periods, and other limitations, for train employees (e.g., locomotive engineers and conductors) providing commuter and intercity rail passenger transportation.

**34. 49 C.F.R. Part 234, Grade Crossing Signal System Safety - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 234 since UTC last adopted it effective June 30, 2010.

**35. 49 C.F.R. Part 239, Passenger Train Emergency Preparedness - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 239 since UTC last adopted it effective June 30, 2010.

**36. 49 C.F.R. Part 240, Qualification and Certification of Locomotive Engineers - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 240 since UTC last adopted it effective June 30, 2010.

**37. 49 C.F.R. Part 570.6 and 570.7, Vehicle in Use Inspection Standards - Effective: September 30, 2011:**

- No changes have been made to 49 C.F.R. Part 570.6 and 570.7 since UTC last adopted it effective June 30, 2010.

**38. ANSI Z308.1-2009, American National Standard for Minimum Requirements for Workplace First Aid Kits - Effective: September 30, 2011:**

- No changes have been made to ANSI Z308.1-2009 since UTC last adopted it effective June 30, 2010.

**39. ANSI/ISEA 207-2006 - American National Standard for High-Visibility Public Safety Vests - Effective: September 30, 2011:**

- No changes have been made to ANSI/SEA 207-2006 since UTC last adopted it effective June 30, 2010.

**40.** Dates are being changed in chapters 480-75 and 480-93 WAC to reflect new editions of standards previously incorporated by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

**41.** Replaces previous title of "Inverters, converters, and controllers for use in independent power systems" with, "Inverters, converters, controllers and interconnection systems equipment for use with distributed energy resources."

**42. The Institute of Electrical and Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics as published in 2005:**

- This standard covers the general parameters and characteristics associated with telephone loops from the subscriber signaling and analog voice frequency interface to the local Class 5 switch interface. It includes only those business and residential lines in the North American public switched network where no special performance requirements are involved. This standard provides common denominators for subscriber line performance, independent of facility types, construction processes or equipment, and circuit provisioning methods. IEEE 820-2005 is still the latest version for loop performance. However, the reference of "1984" in the rule needs to be replaced with "2005." The reference should be change[d] as [to] "(ANSI/IEEE Std 820-2005)."

**43. 47 C.F.R., as of 1998 edition, except Sections 64.2003 through 64.2009 (as referred in WAC 480-120-202 in effect after Oct. 1, 2010)**

- At this time, staff will continue using the 1998 FCC Part 32 because it contains the required level of detail that fills our needs. Updated versions of Part 32 do not include some accounts and has combined other accounts. Also, the FCC has opened a rule making regarding accounting rules. Staff would prefer to maintain the current accounting requirements until the FCC's accounting rule changes are solidified, and until the potential effect of changes to intercarrier compensation on accounting needs can be determined, before making changes to the UTC's accounting rules. If the FCC decides to change the accounting rules in a significant way, then the UTC would be able to carefully analyze how its needs can be met through maintaining the federally required uniform system of accounts, whatever it might turn out to be, and then can decide what additional accounting requirements it may have.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO David W. Danner, Executive Director and Secretary, Washington Utilities and Transportation Commission (UTC), P.O. Box 47250, Olympia, WA 98504-7250, AND RECEIVED BY January 23, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal would revise the adoption-by-reference dates to reflect the current version of adopted material and make other minor administrative changes in Title 480 WAC.

Reasons Supporting Proposal: The commission adopts by reference several parts in Title 18, 47 and 49 of the Code of Federal Regulations and other state rules and national standards. This adoption package will make commission rules consistent with current published versions of federal rules, reflect the most current versions of the national safety standards and correct typographical, grammatical, and punctuation errors.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353.

Statute Being Implemented: Not applicable.

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

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

Name of Agency Personnel Responsible for Drafting: Betty Young, Compliance Investigator, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1202; Implementation and Enforcement: David W.

Danner, Executive Director and Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1208.

November 21, 2011

David W. Danner  
Executive Director  
and Secretary

**AMENDATORY SECTION** (Amending Order R-555, Docket TV-090400, filed 10/30/09, effective 11/30/09)

**WAC 480-14-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publication, effective dates, references within this chapter, and availability of the resource is within Title 49 Code of Federal Regulations (CFR), including all appendices and amendments is published by the United States Government Printing Office.

(1) The commission adopts the version in effect on ~~((April 30, 2008))~~ September 30, 2011, for 49 CFR Parts 171, 172 and ~~((395))~~ 173.

(2) This publication is referenced in WAC 480-14-250 (Insurance requirements ~~((; cause for suspension or cancellation)))~~).

(3) Copies of Title 49 CFR are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-15-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ~~((2010))~~ 2011.

(b) This publication is referenced in WAC 480-15-560 (Equipment safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA in Washington, D.C.

(2) **Title 49 Code of Federal Regulations**, cited as 49 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((June 30, 2010, except that for 49 CFR Part 40, the commission adopts the version in effect on October 1, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-15-560 (Equipment safety requirements) and WAC 480-15-570 (Driver safety requirements).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-30-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ~~((2010))~~ 2011.

(b) This publication is referenced in ~~((WAC 480-30-121 (Certificates, applications, charter and excursion) and))~~ WAC 480-30-221 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA in Washington, D.C.

(2) **Title 49 Code of Federal Regulations**, cited as 49 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((June 30, 2010, except that for 49 CFR Part 40, the commission adopts the version in effect on October 1, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-30-221 (Vehicle and driver safety requirements) and WAC 480-30-226 (Intrastate medical waivers).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-31-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) *North American Standard Out-of-Service Criteria* (OOSC) is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ~~((2010))~~ 2011.

(b) This publication is referenced in WAC 480-31-120 (Equipment—Inspection—Ordered for repairs).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA in Washington, D.C.

(2) **Title 49 Code of Federal Regulations**, cited as 49 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((June 30, 2010, except that for 49 CFR Part 40, the commission adopts the version in effect on October 1, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-31-100 (Equipment—Safety), WAC 480-31-120 (Equipment—Inspection—Ordered for repairs), and WAC 480-31-130 (Operation of motor vehicles).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket No. TR-981102, General Order No. R-477, filed 1/30/01, effective 3/2/01)

**WAC 480-62-200 Roadway worker safety and operating rules and statutes.** (1) The commission adopts by reference the following parts of Title 49 of the Code of Federal Regulations (CFR) ~~((and Title 49 of the United States Code (U.S.C.)))~~ and all pertinent appendices:

(a) 49 CFR Part 209: Railroad safety enforcement procedure;

(b) 49 CFR Part 214: Railroad workplace safety;

(c) 49 CFR Part 217: Railroad operating rules;

(d) 49 CFR Part 218: Railroad operating practices;

(e) 49 CFR Part 219: Procedures for transportation workplace drug testing programs;

(f) 49 CFR Part 220: Radio standards and procedures;

(g) 49 CFR Part 221: Rear end marking device - passenger, commuter and freight trains;

(h) 49 CFR Part 225: Railroad Accidents/Incidents: Reports classification, and investigations;

(i) 49 CFR Part 228: Hours of service of railroad employees;

(j) 49 CFR Part 239: Passenger train emergency preparedness;

(k) 49 CFR Part 240: Qualification and Certification of Locomotive Engineers Hours of Service;

(l) 49 ~~((U.S.C. Chapter))~~ CFR Part 211: Hours of Service.

(2) Information about Title 49 CFR ~~((and Title 49 U.S.C.))~~ regarding the version adopted and where to obtain it is set out in WAC 480-62-999.

(3) All violations of the above incorporated rules and statutes will be submitted to the Federal Railroad Administration for enforcement action pursuant to the State Safety Participation Program, 49 CFR Part 212.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-62-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references

within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((June 30, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-62-160 (Compliance policy), WAC 480-62-200 (Roadway worker safety and operating rules and statutes), WAC 480-62-205 (Track safety standards), WAC 480-62-210 (Crossing signal circuitry), WAC 480-62-215 (Hazardous materials regulations), WAC 480-62-235 (Flaggers), and WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(2) **Manual on Uniform Traffic Control Devices**, cited as Manual on Uniform Traffic Control Devices, or MUTCD, is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((June 30, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-62-230 (Traffic control devices) and WAC 480-62-235 (Flaggers).

(c) Copies of the MUTCD are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **ANSI Z308.1 - 2009 American National Standard for Minimum Requirements for Workplace First Aid Kits** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on ~~((June 30, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-62-240 (Passenger carrying vehicles—Equipment).

(c) Copies of ANSI Z308.1 - 2009 American National Standard for Minimum Requirements for Workplace First Aid Kits are available from Global Engineering Documents in Englewood, Colorado.

(4) **ANSI/ISEA 207-2006 - American National Standard for High-Visibility Public Safety Vests** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on ~~((June 30, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-62-235 (Flaggers).

(c) Copies of ANSI/ISEA 207-2006 - American National Standard for High-Visibility Public Safety Vests are available from Global Engineering Documents in Englewood, Colorado.

**AMENDATORY SECTION** (Amending Docket No. TG-990161, General Order No. R-479, filed 3/23/01, effective 4/23/01)

**WAC 480-70-431 Biomedical waste, adoption of federal regulations.** (1) Companies transporting biomedical waste must comply with all federal, state and local laws and rules governing such transportation. Companies must also



comply with Parts ~~((170))~~ 171 through ~~((189))~~ 180 of Title 49, Code of Federal Regulations (49 CFR), that are adopted by reference. Information about 49 CFR regarding the version adopted and where to obtain copies is set out in WAC 480-70-999.

(2) Any company transporting waste, that meets either federal or state criteria as biomedical waste, must handle and transport that waste according to the appropriate requirements of the federal hazardous materials regulations and the additional requirements in these rules.

**AMENDATORY SECTION** (Amending Docket No. TG-990161, General Order No. R-479, filed 3/23/01, effective 4/23/01)

**WAC 480-70-486 Hazardous waste, adoption of federal regulations.** (1) Companies transporting hazardous waste must comply with all federal, state and local laws and rules governing such transportation. Companies must also comply with Parts ~~((170))~~ 171 through ~~((189))~~ 180 of Title 49, Code of Federal Regulations (49 CFR) that are adopted by reference. Information about 49 CFR regarding the version adopted and where to obtain copies is set out in WAC 480-70-999.

(2) Any company transporting waste that meets either federal or state criteria as hazardous waste must handle and transport that waste according to the appropriate requirements of the federal hazardous materials regulations and the additional requirements in these rules.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-70-999 Adoption by reference.** In this chapter, the commission adopts by reference all, or portions of, regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **The North American Standard Out-of-Service Criteria** is published by the Commercial Vehicle Safety Alliance (CVSA).

(a) The commission adopts the version in effect on April 1, ~~((2010))~~ 2011.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements).

(c) The *North American Out-of-Service Criteria* is a copyrighted document. Copies are available from CVSA in Washington, D.C.

(2) **Title 40 Code of Federal Regulations**, cited as 40 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((July 1, 2006))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-70-041 (Definitions, general).

(c) Copies of Title 40 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(3) **Title 49 Code of Federal Regulations**, cited as 49 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on ~~((June 30, 2010, except that for 49 CFR Part 40, the commission adopts the version in effect on October 1, 2010))~~ September 30, 2011.

(b) This publication is referenced in WAC 480-70-201 (Vehicle and driver safety requirements), WAC 480-70-431 (Biomedical waste, adoption of federal regulations), and WAC 480-70-486 (Hazardous waste, adoption of federal regulations).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-75-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **Title 49 Code of Federal Regulations**, cited as 49 CFR, Parts 195 and 199 including all appendices and amendments except for 49 CFR Sections 195.0 and 195.1, and 49 CFR Sections 199.1 and 199.2, published by the United States Government Printing Office.

(a) The commission adopts the version in effect on October 1, ~~((2010))~~ 2011.

(b) This publication is referenced in WAC 480-75-370 (Design factor (*F*) for steel pipe), WAC 480-75-630 (Incident reporting), and WAC 480-75-660 (Procedural manual for operations, maintenance, and emergencies).

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>.

(2) **The American Society of Mechanical Engineers (ASME) B31.4**, 2006 edition, October 20, 2006.

(a) This publication is referenced in WAC 480-75-350 (Design specifications for new pipeline projects), WAC 480-75-440 (Pipeline repairs), and WAC 480-75-450 (Construction specifications).

(b) Copies of ASME B31.4 are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The 2007 edition, July 2007, of **Section IX of the ASME Boiler and Pressure Vessel Code**.

(a) This publication is referenced in WAC 480-75-430 (Welding procedures).

(b) Copies of the ~~((2004))~~ 2007 edition, ~~((including addenda through July 1, 2005,))~~ of *Section IX of the ASME Boiler and Pressure Vessel Code* are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(4) The commission adopts **American Petroleum Institute (API) standard 1104** (20th edition (~~(2007)~~) 2005, including errata/addendum July 2007 and errata 2 (December 2008)).

(a) This publication is referenced in WAC 480-75-430 (Welding procedures) and WAC 480-75-460 (Welding inspection requirements).

(b) Copies of API standard 1104 (~~((19th edition 1999 including errata October 31, 2001; and))~~) 20th edition (~~(2007)~~) 2005, including errata/addendum July 2007 and errata December 2008 are available from the Office of API Publishing Services, <http://www.api.org/>. It is also available for inspection at the commission.

(5) The commission adopts **API RP standard 1117** Third Edition, July 2008, including errata December 2008.

(a) This publication is referenced in WAC 480-75-500 (Moving and lowering hazardous liquid pipelines).

(b) Copies of API standard 1117 Third Edition, July 2008, including errata December 2008 are available from API, <http://www.api.org/>.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-90-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, (~~(2010)~~) 2011.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-90-203 (Accounting system requirements), WAC 480-90-244 (Transferring cash or assuming obligation), WAC 480-90-252 (Federal Energy Regulatory Commission (FERC) Form No. 2), and WAC 480-90-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(2) **The Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 1985.

(b) This publication is referenced in WAC 480-90-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copy-

righted document. Copies are available from NARUC, in Washington, D.C.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-93-999 Adoption by reference.** In this chapter, the commission adopts by reference each of the regulations and/or standards identified below. Each regulation or standard is listed by publication, publisher, scope of what the commission is adopting, effective date of the regulation or standard, the place within the commission's rules the regulation or standard is referenced, and where to obtain the regulation or standard.

(1) Parts 191, 192, 193, and 199 of Title 49 Code of Federal Regulations, including all appendices and amendments thereto as published by the United States Government Printing Office.

(a) The commission adopts the version of the above regulations that were in effect on October 1, (~~(2010)~~) 2011, except the following sections are not adopted by reference: 191.1, 192.1(a), 193.2001(a), 199.1. In addition, please note that in WAC 480-93-013, the commission includes "new construction" in the definition of "covered task," as defined in 49 CAR § 192.801 (b)(2).

(b) This publication is referenced in WAC 480-93-005, 480-93-080, 480-93-100, 480-93-110, 480-93-124, 480-93-155, 480-93-170, 480-93-180, and 480-93-18601.

(c) Copies of Title 49 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>. It is also available for inspection at the commission.

(2) Section IX of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

(a) The commission adopts the 2007 edition, July 1, 2007, of Section IX of the ASME Boiler and Pressure Vessel Code.

(b) This publication is referenced in WAC 480-93-080.

(c) Copies of Section IX of the ASME Boiler and Pressure Vessel Code (~~((2004)~~) 2007 edition, including addenda through July 1, 2005) are available from ASME, <http://www.asme.org/codes/>. It is also available for inspection at the commission.

(3) The American Petroleum Institute (API) standard 1104 (20th edition (~~(2007)~~) October 2005, including errata/addendum July 2007 and errata 2 (2008)).

(a) The commission adopts the 20th edition (~~(2007)~~) 2005, including errata/addendum July 2007 and errata 2 (2008) of this standard.

(b) This standard is referenced in WAC 480-93-080.

(c) Copies of API standard 1104 (~~((19th edition 1999, including errata October 31, 2001; and))~~) 20th edition (~~(2007)~~) 2005, including errata/addendum July 2007 and errata December 2008 are available from the Office of API Publishing Services, <http://www.api.org/>. It is also available for inspection at the commission.

AMENDATORY SECTION (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-100-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) **Title 18 Code of Federal Regulations**, cited as 18 CFR, including all appendices and amendments is published by the United States Government Printing Office.

(a) The commission adopts the version in effect on April 1, ~~((2010))~~ 2011.

(b) The accounting and reporting for the types of transactions and events covered by the amendment should not be construed as indicative of their treatment by this commission for ratemaking purposes.

(c) This publication is referenced in WAC 480-100-203 (Accounting system requirements), WAC 480-100-244 (Transferring cash or assuming obligation), WAC 480-100-252 (Federal Energy Regulatory Commission (FERC) Form No. 1), and WAC 480-100-268 (Essential utilities services contracts report).

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(2) The **Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies** is published by the National Association of Regulatory Utility Commissioners (NARUC).

(a) The commission adopts the version in effect in 1985.

(b) This publication is referenced in WAC 480-100-228 (Retention and preservation of records and reports).

(c) The *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies* is a copyrighted document. Copies are available from NARUC in Washington, D.C.

(3) The **National Electrical Code** is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the 2011 edition.

(b) This publication is referenced in WAC 480-100-163 (Service entrance facilities).

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA in Quincy, Massachusetts.

(4) The **American National Standard for Electric Meters: Code for Electricity Metering**, ANSI C12.1 is published by the American National Standards Institute.

(a) The commission adopts the version published in 2008.

(b) This publication is referenced in WAC 480-100-318 (Meter readings, multipliers, and test constants), WAC 480-100-338 (Accuracy requirements for electric meters), and WAC 480-100-343 (Statement of meter test procedures).

(c) The ANSI C12.1 is a copyrighted document. Copies are available from Global Engineering Documents in Englewood, Colorado.

AMENDATORY SECTION (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-108-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library or as otherwise indicated. The publications, effective date, references within this chapter, and availability of the resources are as follows:

(1) The National Electrical Code is published by the National Fire Protection Association (NFPA).

(a) The commission adopts the 2011 edition.

(b) This publication is referenced in WAC 480-108-020.

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA at 1 Batterymarch Park, Quincy, Massachusetts, 02169 or at internet address <http://www.nfpa.org>.

(2) National ~~((Electric))~~ Electrical Safety Code (NESC).

(a) The commission adopts the ~~((version published in 2007))~~ 2012 edition.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of the National ~~((Electric))~~ Electrical Safety Code are available from the Institute of Electrical and Electronics Engineers at <http://standards.ieee.org/nesc>.

(3) Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems.

(a) The commission adopts the version published in 2003 and reaffirmed in 2008.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of IEEE Standard 1547 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org/web/standards/home>.

(4) American National Standards Institute (ANSI) Standard C37.90, IEEE Standard for Relays and Relay Systems Associated with Electric Power Apparatus.

(a) The commission adopts the version published in 2005.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of IEEE Standard C37.90 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org/web/standards/home>.

(5) Institute of Electrical and Electronics Engineers (IEEE) Standard 519, Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems.

(a) The commission adopts the version published in ~~((1992))~~ 2004.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of IEEE Standard 519 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org/web/standards/home>.

(6) Institute of Electrical and Electronics Engineers (IEEE) Standard 141, Recommended Practice for Electric Power Distribution for Industrial Plants.

(a) The commission adopts the version published in 1994 and reaffirmed in 1999.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of IEEE Standard 141 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org/web/standards/home>.

(7) Institute of Electrical and Electronics Engineers (IEEE) Standard 142, Recommended Practice for Grounding of Industrial and Commercial Power Systems.

(a) The commission adopts the version published in 2007.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of IEEE Standard 142 are available from the Institute of Electrical and Electronics Engineers at <http://www.ieee.org/web/standards/home>.

(8) Underwriters Laboratories (UL), including UL Standard 1741, Inverters, Converters, ~~((and))~~ Controllers and Interconnection Systems Equipment for Use ~~((in Independent Power Systems))~~ with Distributed Energy Resources.

(a) The commission adopts the version published in 2010.

(b) This publication is referenced in WAC 480-108-020.

(c) UL Standard 1741 is available from Underwriters Laboratory at <http://www.ul.com>.

(9) Occupational Safety and Health Administration (OSHA) Standard at 29 CFR 1910.269.

(a) The commission adopts the version published in 1994.

(b) This publication is referenced in WAC 480-108-020.

(c) Copies of Title 29 Code of Federal Regulations are available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

(10) Washington Industrial Safety and Health Administration (WISHA) Standard, chapter 296-155 WAC.

(a) The commission adopts the version in effect on September 1, 2010.

(b) This publication is referenced in WAC 480-108-020.

(c) The WISHA Standard is available from the Washington Department of Labor and Industries at P.O. Box 44000, Olympia, WA 98504-4000, or at internet address <http://www.lni.wa.gov>.

**AMENDATORY SECTION** (Amending Docket A-101466, General Order R-562, filed 1/25/11, effective 2/25/11)

**WAC 480-120-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) **American National Standards for Telecommunications** - "*Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications*" (ATIS 0100510) is published by the American National Standards Institute (ANSI).

(a) The commission adopts the version in effect on December 29, 1999, and reaffirmed 2008.

(b) This publication is referenced in WAC 480-120-401 (Network performance standards).

(c) The American National Standards for Telecommunications "*Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications*" is a copyrighted document. Copies are available

from ANSI in Washington, D.C. and from various third-party vendors.

(2) **The Institute of Electrical And Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics** (ANSI/IEEE Std ((~~820-1984~~)) 820-2005) is published by the ANSI and the IEEE.

(a) The commission adopts the version in effect as published in 2005.

(b) This publication is referenced in WAC 480-120-401 (Network performance standards).

(c) *The IEEE Standard Telephone Loop Performance Characteristics* is a copyrighted document. Copies are available from ANSI and IEEE in Washington, D.C. and from various third-party vendors.

(3) **The National Electrical Safety Code** is published by the IEEE.

(a) The commission adopts the version in effect on ((~~January 1, 2007~~)) August 1, 2011.

(b) This publication is referenced in WAC 480-120-402 (Safety).

(c) *The National Electrical Safety Code* is a copyrighted document. Copies are available from IEEE in Washington, D.C. and from various third-party vendors.

(4) **Title 47 Code of Federal Regulations**, cited as 47 CFR, is published by the United States Government Printing Office.

(a) For this publication as referenced in WAC 480-120-359 (Accounting requirements for companies not classified as competitive) and WAC 480-120-349 (Retaining and preserving records and reports), the commission adopts the version of the relevant sections in effect on October 1, 1998.

(b) For this publication as referenced in WAC 480-120-202 (Customer proprietary network information), WAC 480-120-146 (Changing service providers from one local exchange company to another), and any other reference in chapter 480-120 WAC except for WAC 480-120-359 and 480-120-349, the commission adopts the version of the relevant sections in effect on October 1, 2010.

(c) The 1998 version of CFR Title 47 is available on-line in pdf format via GPO Access and the National Archives and Records Administration at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

(d) The 2010 version of CFR Title 47 is available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket A-081419, General Order R-554, filed 12/23/08, effective 1/23/09)

**WAC 480-123-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

(1) The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.

(2) The commission adopts the version in effect on ((~~February 5, 2007~~)) January 1, 2011.

(3) This publication is referenced in WAC 480-123-030 (contents of petition for eligible telecommunications carriers).

(4) Copies of the CTIA Consumer Code for Wireless Service are available at <http://www.ctia.org>.

**WSR 11-23-126**  
**EXPEDITED RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed November 21, 2011, 12:13 p.m.]

Title of Rule and Other Identifying Information: WAC 357-31-010 Which employees qualify for holiday compensation?, 357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month?, 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?, 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?, 357-46-067 What is an employee's status during temporary layoff?, and 357-58-554 What is a WMS employee's status during temporary layoff?

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Connie Goff, Office of the State Human Resources Director, Office of Financial Management (OFM), 521 Capitol Way South, Olympia, WA 98504, AND RECEIVED BY January 23, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These changes are a result of the passage of ESSB 6503. This bill required immediate action to reduce expenditures during the 2009-2011 fiscal biennium. It was the intent of this bill that state agencies of the legislative branch, judicial branch, and executive branch including institutions of higher education, shall achieve a reduction in government operating expenses as provided in the bill. For some state employers this meant implementing temporary layoffs. There are provisions in the bill which required us to make changes to the temporary layoff rules in order to implement temporary layoffs as described in the bill.

These rules were originally filed correctly as CR-102 under WSR 10-20-176 on October 6, 2010. However, on November 10, 2010, when the permanent adoption was filed under WSR 10-23-040, the wrong drafts of these six rules were inadvertently filed.

Since the language that was inadvertently left out of WAC 357-31-010, 357-31-120, 357-31-180, and 357-31-175

pertained to Higher Education Institutions we contacted the institutions and determined that there has not been a temporary layoff implemented which applied to nonrepresented employees since these rules were adopted in December 2010. The language that was left off of the other WACs (WAC 357-46-067 and 357-58-554), was language that was stated in ESSB 6503 therefore was still in effect even though it was not in the civil service rule.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: [OFM], governmental.

Name of Agency Personnel Responsible for Drafting: Kristie Wilson, 521 Capitol Way South, Olympia, WA 98504, (360) 664-6408; Implementation and Enforcement: OFM.

November 21, 2011

Eva N. Santos

State Human Resources Director

AMENDATORY SECTION (Amending WSR 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-31-010 Which employees qualify for holiday compensation?** (1) Full-time general government employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

(a) For at least eighty nonovertime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

(c) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees who satisfy the requirements of subsection (1) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

AMENDATORY SECTION (Amending WSR 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of sick leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of sick leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

AMENDATORY SECTION (Amending WSR 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

AMENDATORY SECTION (Amending WSR 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?** Leave without pay taken for military leave of absence without pay, for temporary layoff as provided in WAC 357-46-063, or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do not affect the rate at which employees accrue vacation leave. For all other periods of leave without pay, the following applies:

(1) When a general government employee takes leave without pay which exceeds fifteen consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.

(2) When a higher education employee takes more than ten working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

AMENDATORY SECTION (Amending WSR 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-46-067 What is an employee's status during temporary layoff?** (1) The following applies during a temporary layoff:

(a) An employee's anniversary, seniority, and unbroken service dates are not adjusted for periods of time spent on temporary layoff;

(b) An employee's vacation and sick leave accruals will not be impacted by periods of time spent on temporary layoff;

(c) An employee's holiday compensation will not be impacted by periods of time spent on temporary layoff; and

(d) The duration of an employee's probationary period or trial service period shall not be extended for periods of time spent on temporary layoff.

(2) An employee who is temporarily laid off is not entitled to:

(a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

(b) Payment for their vacation leave balance; and

(c) Use of their accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds. The only exception is that during the 2009-2011 fiscal biennium if an employee's monthly full-time equivalent base salary is two thousand five hundred dollars or less and the employee's office or institution enacts a temporary layoff as described in chapter 32, Laws of 2010, the employee can use accrued vacation leave during the period of temporary layoff.

(3) If the temporary layoff was not due to lack of funds, an employer may allow an employee to use accrued vacation leave in lieu of temporary layoff.

AMENDATORY SECTION (Amending WSR 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-58-554 What is a WMS employee's status during temporary layoff?** (1) The following applies during a temporary layoff:

(a) An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff;

(b) An employee's vacation and sick leave accruals will not be impacted by periods of time spent on temporary layoff;

(c) An employee's holiday compensation will not be impacted by periods of time spent on temporary layoff; and

(d) The duration of an employee's review period shall not be extended for periods of time spent on temporary layoff.

(2) A WMS employee who is temporarily laid off is not entitled to:

(a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

(b) Payment for their vacation leave balance; and

(c) Use of their accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds. The only exception is that during the 2009-2011 fiscal biennium if an employee's monthly full-time equivalent base salary is two thousand five hundred dol-

lars or less and the employee's agency enacts a temporary lay-off as described in chapter 32, Laws of 2010, the employee can use accrued vacation leave during the period of temporary layoff.

(3) If the temporary layoff was not due to lack of funds, an employer may allow a WMS employee to use accrued vacation leave in lieu of temporary layoff.

**WSR 11-23-163**  
**EXPEDITED RULES**  
**COMMUNITY COLLEGES**  
**OF SPOKANE**

[Filed November 22, 2011, 10:37 a.m.]

Title of Rule and Other Identifying Information: Amend WAC 132Q-20-220 Report of accidents.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kathleen Roberson, Executive Assistant to the CFO, Community Colleges of Spokane, Mailstop 1006, P.O. Box 6000, Spokane, WA 99217-6000, kroberson@ccs.spokane.edu, AND RECEIVED BY January 23, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 132Q-20-220 Report of accidents, which states damage to either or both vehicles exceeding \$300 shall be reported immediately, is no longer in compliance with Washington state patrol, WAC 446-85-010, which sets damages at \$700.

Reasons Supporting Proposal: The WAC section will be amended to remove a specific dollar amount and reference the Washington state patrol, WAC 446-85-010.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Community Colleges of Spokane, governmental.

Name of Agency Personnel Responsible for Drafting: Kathleen Roberson, Mailstop 1006, P.O. Box 6000, Spokane, WA 99217-6000, (509) 434-5275; Implementation and Enforcement: Community Colleges of Spokane, Mailstop 1006, P.O. Box 6000, Spokane, WA 99217-6000, (509) 434-5275.

November 22, 2011  
Kathleen Roberson  
Executive Assistant  
to the CFO

AMENDATORY SECTION (Amending WSR 03-18-021, filed 8/25/03, effective 9/25/03)

**WAC 132Q-20-220 Report of accidents.** The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or *total of claimed damage to either or both vehicles exceeding (~~(\$300.00)~~) the reporting threshold for property damage accidents pursuant to state patrol WAC 446-85-010*, shall immediately report the accident to the appropriate vice-president or designee, and shall within twenty-four hours after such accident, file a state of Washington motor vehicle accident report if required.