

WSR 11-23-094
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed November 17, 2011, 2:31 p.m., effective December 18, 2011.]

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

Purpose: To readopt specific rule sections to ensure that they refer to most recent versions of chapters 173-400 and 173-401 WAC. Also to adopt the General Order provisions under WAC 173-400-560 by reference to allow the NWCAA to issue General Orders.

Citation of Existing Rules Affected by this Order: Amending Sections 104, 200, 300, 301, 305, 321, and 322 of the Regulation of the Northwest Clean Air Agency.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 11-19-080 on October [September] 19, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 17, 2011.

Mark Buford
Assistant Director

AMENDATORY SECTION

Section 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law that are in effect as of October 19 (~~May 18~~), 2011, which are pertinent to the operation of the NWCAA, are hereby adopted by reference and made part of the Regulation of the NWCAA. Specifically, there is adopted by reference the portions pertinent to the operation of the NWCAA of the Washington State Clean Air Act (chapter 70.94 RCW), the Administrative Procedures Act (chapter 34.05 RCW) and chapters 43.21A and 43.21B RCW and the following state rules: chapter 173-400 WAC, (except — -035, -036, -070(8), -075, -099, -100, -101, -102, -103, -104, -105(8), -110, -114, -115, -116, -171(~~560~~), -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-470 WAC, chapter 173-474 WAC, chapter 173-475 WAC, chapter 173-481 WAC, chapter 173-490 WAC, chapter 173-491 WAC, chapter 173-492 WAC, and chapter 173-495 WAC.

104.2 All provisions of the following federal rules that are in effect as of October 19 (~~May 18~~), 2011 are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK and Appendix A - I; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, YYYYY, CCCCC, EEEEE, FFFFF, GGGGG, MMMMM, NNNNN, SSSSS, VVVVV; and 40 CFR 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011

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

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

ACTUAL EMISSIONS - The actual rate of emissions of a pollutant from an emission unit, as determined in accordance with a) through c) of this definition.

a) In general, the actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal stationary source operation. The NWCAA shall allow the use of a different time period upon a determination by the NWCAA that it is more representative of normal stationary source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b) The NWCAA may presume that stationary source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

ADVERSE IMPACT ON VISIBILITY - Adverse impact on visibility is defined in WAC 173-400-117.

AIR CONTAMINANT - Dust, fumes, mist, smoke, other particulate matter, vapor gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

AIR POLLUTION - The presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant, or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purposes of this regulation, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

AIR QUALITY OBJECTIVE - The concentration and exposure time of one or more air contaminants in the ambient air below which, according to available knowledge, undesirable effects will not occur.

AIR QUALITY STANDARD - An established concentration, exposure time and frequency of occurrence of one or more air contaminants in the ambient air which shall not be exceeded.

ALLOWABLE EMISSIONS - The emission rate of a stationary source calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- a) The applicable standards as in 40 CFR Part 60, 61 or 63;
- b) Any applicable SIP emissions limitation including those with a future compliance date; or
- c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

AMBIENT AIR - The surrounding outside air.

AMBIENT AIR QUALITY STANDARD - An established concentration, exposure time and frequency of occurrence of one or more air contaminant(s) in the ambient air which shall not be exceeded.

AMBIENT AIR MONITORING STATION - A station so designated by the Control Officer for the purpose of measuring air contaminant concentrations in the ambient air. The station location and sampling probe locations shall be designated by the Control Officer utilizing as a guide 40 CFR Part 58, Appendix "D" Network Design and Appendix "E" Probe Siting Criteria.

ATTAINMENT AREA - A geographic area designated by EPA at 40 CFR Part 81 as having attained the National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant.

BEGIN ACTUAL CONSTRUCTION - In general, initiation of physical on-site construction activities on an emission unit

which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

BEST AVAILABLE CONTROL TECHNOLOGY (BACT) - An emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the NWCAA, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such stationary source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "Best Available Control Technology" result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. Emissions from any stationary source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

BEST AVAILABLE RETROFIT TECHNOLOGY (BART) - An emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the stationary source, the remaining useful life of the stationary source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

BOARD - Board of Directors of the NWCAA.

BUBBLE - A set of emission limits which allows an increase in emissions from a given emissions unit in exchange for a decrease in emissions from another emissions unit, pursuant to RCW 70.94.155 and WAC 173-400-120.

BUSINESS ESTABLISHMENT - A facility and/or place where commercial and/or professional dealings are conducted.

CATALYTIC CRACKING UNIT - A petroleum refinery cracking unit of the fluid or compact moving bed type consisting of a reactor, regenerator and fractionating tower and, where employed, a carbon monoxide boiler.

CLASS I AREA - Any area designated under section 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas in Washington state:

- a) Alpine Lakes Wilderness;
- b) Glacier Peak Wilderness;
- c) Goat Rocks Wilderness;
- d) Mount Adams Wilderness;

- e) Mount Rainier National Park;
- f) North Cascades National Park;
- g) Olympic National Park;
- h) Pasayten Wilderness; and
- i) Spokane Indian Reservation

COMBUSTION and INCINERATION UNITS - Units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

COMMENCED - a) Commenced as applied to construction, means that the owner or operator has all the necessary pre-construction approvals or permits and either has:

1) Begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or

2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the stationary source to be completed within a reasonable time.

b) For the purpose of this definition, "necessary pre-construction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.

COMMERCIAL COMPOSTING FACILITY - A facility that is operated for the purpose of selling or off-site distribution of compost produced via the controlled biological degradation of organic material.

COMPLAINANT - Any person who files a complaint.

CONCEALMENT - Any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

CONTROL FACILITY - Includes any treatment works, control devices and disposal systems, machinery equipment, structures, property or any part of accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste which, if released to the outdoor atmosphere, could cause air pollution.

CONTROL OFFICER - Air Pollution Control Officer of the NWCAA, also known as Director.

CRITERIA POLLUTANT - A pollutant for which there is established a National Ambient Air Quality Standard at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

DAYLIGHT HOURS - The hours between official sunrise and official sunset.

ECOLOGY - Washington State Department of Ecology (WDOE).

EMISSION - A release of air contaminants into the ambient air.

EMISSION REDUCTION CREDIT (ERC) - A credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

EMISSION POINT - The location (place in horizontal plane and vertical elevation) from which an emission enters the atmosphere.

EMISSION STANDARD and EMISSION LIMITATION - A requirement established under the Federal Clean Air Act or chapter 70.94 RCW which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a stationary source to assure continuous emission reduction and any design, equipment work practice, or operational standard adopted under the Federal Clean Air Act or chapter 70.94 RCW.

EMISSIONS UNIT - Any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the Federal Clean Air Act, Chapter 70.94 RCW, Chapter 70.98 RCW or Regulation of the NWCAA.

EQUIPMENT - Any stationary or portable device or any part thereof capable of causing the emission of any contaminant into the atmosphere or ambient air.

EXCESS EMISSIONS - Emissions of an air pollutant in excess of any applicable emission standard.

EXISTING STATIONARY FACILITY - Is defined in WAC 173-400-151.

FEDERAL CLEAN AIR ACT (FCAA) - The Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

FEDERAL CLASS I AREA - Any federal land that is classified or reclassified Class I area. The following areas are the Class I areas in Washington state:

- a) Alpine Lakes Wilderness;
- b) Glacier Peak Wilderness;
- c) Goat Rocks Wilderness;
- d) Mount Adams Wilderness;
- e) Mount Rainier National Park;
- f) North Cascades National Park;
- g) Olympic National Park; and
- h) Pasayten Wilderness

FEDERAL LAND MANAGER - The secretary of the department with authority over federal lands in the United States. This includes, but is not limited to, the U.S. Department of the Interior - National Park Service, the U.S. Department of Agriculture - Forest Service, and/or the U.S. Department of the Interior - Bureau of Land Management.

FEDERALLY ENFORCEABLE - All limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61 and 63, requirements within the Washington SIP, requirements within any permit established under 40 CFR 52.21 or order of approval under a SIP approved new source review regulation, or any voluntary limits on emissions pursuant to WAC 173-400-091.

FIRE CHIEF - A state, county, or city fire marshal, city fire chief, chief of each County Fire Protection District or authorized forestry officials from the Washington State Department of Natural Resources.

FUEL BURNING EQUIPMENT - Equipment that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.

FUGITIVE DUST - A particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads,

construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

FUGITIVE EMISSIONS - Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

HAZARDOUS AIR POLLUTANT (HAP) - Any air pollutant listed in or pursuant to Section 112(b) of the Federal Clean Air Act, 42 U.S.C. §7412.

HEARINGS BOARD - The state Pollution Control Hearings Board or equivalent local hearings board as set forth in RCW 43.21B.

HEAT INPUT CAPACITY - Is the maximum actual or design heat capacity, whichever is greater, stated in British thermal units per hour (BTU/hr) generated by the stationary source and shall be expressed using the higher heating value of the fuel unless otherwise specified.

HOG FUEL BOILER - A boiler that utilizes wood, commonly called "hog fuel", as one source of fuel.

INCINERATOR - A furnace used primarily for the thermal destruction of waste.

INSTALLATION - The placement, assemblage, or construction of equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.

LOWEST ACHIEVABLE EMISSION RATE (LAER) - For any stationary source that rate of emissions which reflects the more stringent of:

a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified stationary source demonstrates that such limitations are not achievable; or

b) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable New Source Performance Standards.

MAJOR MODIFICATION - a) "Major modification" as it applies to stationary sources subject to requirements for new stationary sources in nonattainment areas, is defined in WAC 173-400-112.

b) "Major modification" as it applies to stationary sources subject to requirements for new stationary sources in attainment or unclassified areas is defined in WAC 173-400-113.

MAJOR STATIONARY SOURCE - a) "Major stationary source" as it applies stationary sources subject to requirements for new stationary sources in nonattainment areas is defined in WAC 173-400-112.

b) "Major stationary source" as it applies stationary sources subject to requirements for new stationary sources in attainment or unclassified areas is defined in WAC 173-400-113.

MANDATORY CLASS I FEDERAL AREA - any area defined in Section 162(a) of the Federal Clean Air Act. The following areas are the mandatory Class I federal areas in Washington state:

a) Alpine Lakes Wilderness;

- b) Glacier Peak Wilderness;
- c) Goat Rocks Wilderness;
- d) Mount Adams Wilderness;
- e) Mount Rainier National Park;
- f) North Cascades National Park;
- g) Olympic National Park; and
- h) Pasayten Wilderness

MASKING - The mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

MATERIALS HANDLING - The handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

MERCURY - The element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

MERCURY ORE - A mineral mined specifically for its mercury content.

MODIFICATION - Any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

MULTIPLE CHAMBER INCINERATOR - Any incinerator consisting of two or more combustion chambers in series, employing adequate design parameters necessary for maximum combustion of the material to be burned.

NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) - An ambient air quality standard set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O₃), sulfur dioxide (SO₂), lead (Pb), and nitrogen dioxide (NO₂).

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS) - The federal rules in 40 CFR Part 61.

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - The federal rules in 40 CFR Part 63.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) - Shall be referred to as NPDES.

NATURAL CONDITIONS - Naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

NET EMISSIONS INCREASE - a) Net emissions increase as it applies to stationary sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112.

b) Net emissions increase as it applies to stationary sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.

NEW SOURCE - means one or more of the following:

a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emission of any air contaminant not previously emitted,

b) The restart of a stationary source after permanent shutdown

c) Any other project that constitutes a new stationary source under the Federal Clean Air Act.

NEW SOURCE PERFORMANCE STANDARDS (NSPS) - The federal rules in 40 CFR Part 60.

NONATTAINMENT AREA - A geographic area designated by EPA at 40 CFR Part 81 as exceeding a National Ambient Air Quality Standard (NAAQS) for a given criteria pollutant. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

NON HIGHWAY MOBILE SOURCE - A source which is neither used on nor does ordinarily travel on the public roadways and is powered by an internal combustion or other type engine. These sources include, but are not limited to, farm tractors, bulldozers, earthmovers, ships, boats, railroad locomotives and non-commercial aircraft.

NONROAD ENGINE - a) Except as discussed in b) of this definition, a nonroad engine is any internal combustion engine:

1) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

2) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

3) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

b) An internal combustion engine is not a nonroad engine if:

1) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or

2) The engine is regulated by a New Source Performance Standard (NSPS) promulgated under section 111 of the Federal Clean Air Act; or

3) The engine otherwise included in (a)(3) of this definition remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. As seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

NOTICE OF CONSTRUCTION APPLICATION - A written application to permit construction of a new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source.

ODOR - That property or a substance which allows its detections by the sense of smell and/or taste.

ODOR SOURCE - Any source that incurs two verified odor nuisance complaints within a twelve month time period. Odor nuisance complaints are verified by a NWCAA representative according to the criteria of the NWCAA Regulation Sections 530.1 and 535.3.

OPACITY - The degree to which an object seen through a plume is obscured, stated as a percentage.

ORDER - Any order issued by the NWCAA pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

ORDER OF APPROVAL, APPROVAL ORDER OR ORDER OF APPROVAL TO CONSTRUCT (OAC) - A regulatory order issued by the NWCAA to approve the notice of construction application for a proposed new source or modification or the replacement or substantial alteration of control technology at an existing stationary source.

OWNER, OPERATOR, OR AGENT - Includes the person who leases, supervises or operates the equipment or control facility.

OZONE DEPLETING SUBSTANCE - Substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

PARTICLE - A small discrete mass of solid or liquid matter.

PARTICULATE MATTER OR PARTICULATES - Any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

PARTS PER MILLION (PPM) - parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

PATHOLOGICAL WASTE - Human and animal remains consisting of carcasses, organs and solid organic wastes, consisting of up to 85% moisture, 5% incombustible solids.

PERMANENT SHUTDOWN - Permanently stopping or terminating all processes at a "stationary source" or "emissions unit." Except as provided in subsections a) and b), whether a shutdown is permanent depends on the intention of the owner or operator at the time of the shutdown as determined from all facts and circumstances, including the cause of the shutdown.

a) A shutdown is permanent if the owner or operator files a report of shutdown, as provided in NWCAA Regulation Sections 325. Failure to file such a report does not mean that a shutdown was not permanent.

b) Any shutdown lasting two (2) or more years is considered to be permanent.

PERMITTING AGENCY - Ecology or the local air pollution control authority with jurisdiction over the source.

PERSON - An individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

PETROLEUM LIQUIDS - Petroleum condensate, and any finished intermediate product manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in A.S.T.M. D396-69, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in A.S.T.M.

D2880-71, or diesel fuel oils Number 2-D and 4-D as specified in A.S.T.M. D975-68.

PM₁₀ - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM₁₀ EMISSIONS - Finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the SIP.

PORTLAND CEMENT PLANT - Any facility manufacturing Portland cement by either the wet or dry process.

POTENTIAL TO EMIT - The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) - The program in WAC 173-400-720 through 750.

PROCESS - A physical and/or chemical modification or treatment of a material from its previous state or condition.

REASONABLY ATTRIBUTABLE - Attributable by visual observation or any other technique the state deems appropriate.

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) - The lowest emission limit that a particular stationary source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual stationary source or source category taking into account the impact of the stationary source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any stationary source or source category shall be adopted only after notice and opportunity for comment are afforded.

REFUSE - Putrescible and non-putrescible solid waste including garbage, rubbish, ashes, dead animals, abandoned automobiles, solid market wastes, street cleanings and industrial wastes including waste disposal in industrial salvage.

REFUSE BURNING EQUIPMENT - Equipment designed to burn waste (refuse) material, scrap or combustion remains.

REGISTRATION - Registration shall mean the process of identifying, delineating and itemizing all air contaminant sources within the jurisdiction of the NWCAA including the making of periodic reports, as required, by the persons operating or responsible for such sources and may contain information concerning location, size, height of contaminant out-

lets, processes employed, nature of the contaminant emissions and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

REGULATORY ORDER - An order issued by an Authority to an air contaminant source which applies to that source, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or the NWCAA Regulation.

SMOKE - Gas borne particulate matter in a sufficient amount to be observable.

SOLID WASTE - All putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials, which are not primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to septage from septic tanks, dangerous waste, and problem wastes. Solid waste does not include wood waste or sludge from waste water treatment plants.

SOURCE - All of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement.

SOURCE CATEGORY - All sources of the same type or classification.

STACK - Any point in a stationary source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

STACK HEIGHT - The height of an emission point measured from the ground-level elevation at the base of the stack.

STANDARD CONDITIONS - A temperature of 20 degrees C (68 degrees F) and a pressure of 760 mm (29.92 inches) of mercury.

STANDARD CUBIC FOOT OF GAS - That amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 psia and a temperature of 68 degrees F.

STATE ACT - Washington Clean Air Act (RCW 70.94) and 43.21B.

STATE IMPLEMENTATION PLAN (SIP) or WASHINGTON SIP - Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing National Ambient Air Quality Standards.

STATIONARY SOURCE - Any building, structure, facility, or installation which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216(11) of the Federal Clean Air Act.

STRAW - All vegetative material of agricultural origin other than seed removed by swathing, combining or cutting.

SULFURIC ACID PLANT - Any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

SYNTHETIC MINOR - Any stationary source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.

TON - Short ton or 2,000 pounds (a long ton is considered 2,240 pounds).

TOTAL SUSPENDED PARTICULATE - Particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

TOXIC AIR POLLUTANT (TAP) or TOXIC AIR CONTAMINANT - Any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

TRUE VAPOR PRESSURE - The equilibrium pressure exerted by a hydrocarbon at storage conditions.

UNCLASSIFIABLE AREA - An area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY - Shall be referred to as EPA.

VOLATILE ORGANIC COMPOUND (VOC) - Any carbon compound that participates in atmospheric photochemical reactions. a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate, methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-

hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC2H5); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5); methyl acetate and perfluorocarbon compounds that fall into these classes:

1) Cyclic, branched, or linear completely fluorinated alkanes;

2) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;

3) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by Ecology, the NWCAA, or EPA.

c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, Ecology or the NWCAA may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of Ecology or the NWCAA, the amount of negligibly-reactive compounds in the source's emissions.

WASHINGTON ADMINISTRATIVE CODE (WAC) - Regulations of executive branch agencies in the state of Washington, such as the Department of Ecology.

WOOD WASTE BURNER - A sheet metal or other type of enclosure to form a truncated cone or a single chamber cylindrically shaped incinerator line or constructed of suitable refractory material which employs controlled fuel feed, tangential overfire and underfire air supply system, and is designed and used for the disposal of wood and bark wastes by incineration.

AMENDED: October 13, 1982, November 14, 1984, April 14, 1993, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011

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

AMENDATORY SECTION

Section 300 - NEW SOURCE REVIEW

300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:

a) Those stationary sources exempt under NWCAA 300.4 (categorical) or NWCAA 300.5 (emission thresholds); and

b) Relocation of any temporary source operating in accordance with NWCAA Section 301.

For purposes of this section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

300.2 Regardless of any other subsection of this section, a Notice of Construction or PSD permit application must be filed and an order of approval or PSD permit issued by the NWCAA prior to establishment of any of the following new sources:

a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards), except Subpart AAA (Wood stoves) and such provisions of Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines;

b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for asbestos demolition and renovation projects subject to 40 CFR 61.145;

c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, and Subpart ZZZZ pertaining to emergency and limited-use stationary reciprocating internal combustion engines;

d) Any project that qualifies as a new major stationary source, or a major modification;

e) Any modification to a stationary source that requires an increase either in a plant-wide cap or in a unit specific emission limit.

300.3 New source review of a modification shall be limited to the emission unit or units proposed to be added to an existing stationary source or modified and the air contaminants whose emissions would increase as a result of the modification; provided, however, that review of a major modification must comply with WAC 173-400-112 and/or 173-400-113, as applicable.

300.4 Emission unit and activity exemptions.

Except as provided in NWCAA 300.1 and 300.2 of this section, establishment of a new emission unit that falls within one of the categories listed below is exempt from new source review. Modification of any emission unit listed below is exempt from new source review, provided that the modified unit continues to fall within one of the listed categories. The installation or modification of a unit exempt under this subsection does not require the filing of a Notice of Construction application.

a) Maintenance/construction:

- 1) Cleaning and sweeping of streets and paved surfaces;
- 2) Concrete application, and installation;
- 3) Dredging wet spoils handling and placement;

4) Paving application and maintenance, excluding asphalt plants;

5) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

6) Plumbing installation, plumbing protective coating application and maintenance activities;

7) Roofing application;

8) Insulation application and maintenance, excluding products for resale;

9) Janitorial services and consumer use of janitorial products.

b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks therefore it is recommended that the owner or operator contact the NWCAA to determine the exemption status of storage tanks prior to their installation.

1) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

2) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

3) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

4) Process and white water storage tanks;

5) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

6) Operation, loading and unloading of storage tanks, less than or equal to 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21° C;

7) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

8) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

c) A project with combined aggregate heat input capacity from combustion units, less than or equal to any of the following:

1) Less than or equal to 500,000 Btu/hr coal with less than or equal to 0.5% sulfur or other fuels with less than or equal to 0.5% sulfur;

2) Less than or equal to 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

3) Less than or equal to 400,000 Btu/hr wood waste or paper;

4) Less than 1,000,000 Btu/hr kerosene, #1, or #2 fuel oil and with less than or equal to 0.05% sulfur;

5) Less than or equal to 10,000,000 Btu/hr natural gas, propane, or LPG.

Note: the heat input capacity of each combustion unit shall be based on the higher heating value of fuel to be used.

d) Material handling:

1) Continuous digester chip feeders;

2) Grain elevators not licensed as warehouses or dealers by either the Washington State Department of Agriculture or the U.S. Department of Agriculture;

3) Storage and handling of water based lubricants for metal working where organic content of the lubricant is less than or equal to 10%;

4) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

e) Water treatment:

1) Septic sewer systems, not including active wastewater treatment facilities;

2) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

3) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

4) Process water filtration system and demineralizer vents;

5) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

6) Demineralizer tanks;

7) Alum tanks;

8) Clean water condensate tanks.

f) Environmental chambers and laboratory equipment:

1) Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under chapter 173-460 WAC;

2) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

3) Installation or modification of a single laboratory fume hood;

4) Laboratory calibration and maintenance equipment.

g) Monitoring/quality assurance/testing:

1) Equipment and instrumentation used for quality control/assurance or inspection purpose;

2) Hydraulic and hydrostatic testing equipment;

3) Sample gathering, preparation and management;

4) Vents from continuous emission monitors and other analyzers.

h) Dry Cleaning: Unvented, dry-to-dry, dry-cleaning equipment that is equipped with refrigerated condensers and carbon absorption to recover the cleaning solvent.

i) Emergency Stationary Compression Ignition (CI) Internal Combustion Engines (ICE): Any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance and operating less than 500 hours a year. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc. Stationary CI ICE used to supply power to an electric grid or that supply power as part of a financial arrangement with another entity are not considered to be emergency engines.

j) Miscellaneous:

1) Single-family residences and duplexes;

2) Plastic pipe welding;

3) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

4) Comfort air conditioning;

5) Flares used to indicate danger to the public;

6) Natural and forced air vents and stacks for bathroom/toilet activities;

7) Personal care activities;

8) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

9) Tobacco smoking rooms and areas;

10) Noncommercial smokehouses;

11) Blacksmith forges for single forges;

12) Vehicle maintenance activities, not including vehicle surface coating;

13) Vehicle or equipment washing (see c) of this subsection for threshold for boilers);

14) Wax application;

15) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;

16) Ozone generators and ozonation equipment;

17) Solar simulators;

18) Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted;

19) Electrical circuit breakers, transformers, or switching equipment installation or operation;

20) Pulse capacitors;

21) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;

22) Fire suppression equipment;

23) Recovery boiler blow-down tank;

24) Screw press vents;

25) Drop hammers or hydraulic presses for forging or metal working;

26) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

27) Kraft lime mud storage tanks and process vessels;

28) Lime grits washers, filters and handling;

29) Lime mud filtrate tanks;

30) Lime mud water;

31) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

32) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

33) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;

34) Surface coating, aqueous solution or suspension containing less than or equal to 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

35) Cleaning and stripping activities and equipment using solutions having less than or equal to 1% VOCs (by

weight); on metallic substances, acid solutions are not exempt;

36) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

300.5 Exemptions Based on Emissions Thresholds

a) Except as provided in NWCAA 300.1 and 300.2 of this section and in this subsection:

1) A new emissions unit that has an uncontrolled potential to emit below each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

2) A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from new source review provided that the conditions of (b) of this subsection are met.

b) The owner or operator seeking to exempt a project from new source review under this section shall notify, and upon request, file a brief project summary with the NWCAA thirty (30) days prior to beginning actual construction on the project. If the NWCAA determines that the project will have more than a de Minimus impact on air quality as defined in 300.5 d), the NWCAA shall require the filing of a Notice of Construction or PSD permit application. The NWCAA may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed below. In accordance with NWCAA 324.2, a filing and NOC applicability determination fee shall apply when the NWCAA issues a written determination that a project is exempt for new source review.

c) The owner or operator may begin actual construction on the project thirty-one (31) days after the NWCAA receives the project summary, unless the NWCAA notifies the owner or operator within thirty (30) days that the proposed new source requires a Notice of Construction or PSD permit application.

d) Exemption threshold table:

POLLUTANT THRESHOLD LEVEL (ton per year)

- 1) Total Suspended Particulates: 1.25
- 2) PM-10: 0.75
- 3) Sulfur Oxides: 2.0
- 4) Nitrogen Oxides: 2.0
- 5) Volatile Organic Compounds: total 2.0
- 6) Carbon Monoxide: 5.0
- 7) Lead: 0.005
- 8) Ozone Depleting Substances: total 1.0 (in effect on July 1, 2000)
- 9) Toxic Air Pollutants: as specified in chapter 173-460 WAC.

300.6 The Control Officer may require that a new source, that would otherwise be exempt under this section, submit a Notice of Construction application and be granted approval as specified in this section. This discretionary determination shall be based on the nature of air pollution emissions from the stationary source and its potential effect on health, economic and social factors, or physical effects on property. Upon request, the proponent shall submit to the

Control Officer, appropriate information as necessary to make this determination.

300.7 Notice of Construction - Submittal Requirements

Each Notice of Construction application shall:

- a) be submitted on forms provided by the NWCAA;
- b) be accompanied by the appropriate fee specified in NWCAA 324.2;
- c) be accompanied by a completed State Environmental Policy Act (SEPA) checklist consistent with NWCAA 155; and
- d) include a "top down" BACT analysis, as defined at the time of submittal, except where the Federal Clean Air Act requires LAER; and

e) An applicant filing a Notice of Construction application for a project described in WAC 173-400-117(2), Special protection requirements for Class I areas, shall send a copy of the application to the responsible federal land manager.

300.8 Notice of Construction - Completeness Determination.

a) Within thirty (30) days after receiving a Notice of Construction or PSD permit application, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of additional information necessary to complete the application.

b) For a project subject to the Special protection requirements for federal Class I areas in WAC 173-400-117(2), a completeness determination includes a determination that the application includes all information required for review of that project under WAC 173-400-117(3).

c) For a project subject to PSD review under WAC 173-400-720 through -750, a completeness determination includes a determination that the application provides all information required to conduct the PSD review.

300.9 Notice of Construction - Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-720 through -750, a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

c) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA.

d) If the new source is a major stationary source or the change is a major modification, the application shall be processed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

- 1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and
- 2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval - Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the Pollution Control Hearings Board as provided in chapter 43.21B RCW. The NWCAA shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the Pollution Control Hearings Board.

300.11 Order of Approval - Time Limitations.

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval - Change of Conditions.

a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA may approve the request provided the NWCAA finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA to determine compliance with an emissions standard;
- 4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and
- 5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-720 through -750, as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a

Notice of Construction application, that application must be acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

c) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.14 Adoption of State NSR Regulations

In order to facilitate complete implementation of this section, WAC 173-400-112, -113, -117, -700, -710, -720, -730, -740, and -750 are hereby incorporated by reference.

300.15 Order of Approval - Requirements to Comply

It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.

Passed: November 12, 1998 Amended: November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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

AMENDATORY SECTION

SECTION 301 - TEMPORARY SOURCES

301.1 This section applies to temporary sources not exempt under NWCAA 300.4 or 300.5, which locate temporarily at sites within the jurisdiction of the NWCAA. Nonroad engines regulated by this section are limited to those listed in a) 3) of the definition of "nonroad engine" found in Section 200 of this Regulation (i.e., those that are portable or transportable, but operate in a stationary manner). The regulation of nonroad engines under this section is subject to the limitations as set forth in 40 CFR Appendix A to Subpart A of 89 - State Regulation of Nonroad Internal Combustion Engines.

301.2 The owner or operator of a temporary source shall be allowed to operate at a temporary location without filing a Notice of Construction application or, for nonroad engines, obtaining a regulatory order from the NWCAA providing that:

a) The owner or operator notifies the NWCAA each calendar year of the intent to operate within the jurisdiction of the NWCAA at least fifteen (15) days prior to starting operation and pays the appropriate fees identified in NWCAA Section 324.1;

b) The owner or operator notifies the NWCAA of the intent to relocate within the jurisdiction of the NWCAA at least fifteen (15) days prior to relocation;

c) The owner or operator supplies sufficient information to enable the NWCAA to determine that the operation will comply with all applicable air pollution rules and regulations;

d) The operation does not cause a violation of ambient air quality standards;

e) If the operation is in a nonattainment area, it shall not interfere with the scheduled attainment of ambient standards;

f) The temporary source operates in compliance with all applicable air pollution rules and regulations;

g) A temporary source that is considered a major stationary source within the meaning of WAC 173-400-113 shall also comply with the requirements in WAC 173-400-720 through -750;

h) Except for nonroad engines, all temporary sources shall have a valid Order of Approval to Construct from an air quality permitting organization in the State of Washington. The temporary source shall operate in compliance with the conditions set forth in the Order of Approval to Construct. Any reports required by the Order of Approval to Construct shall be submitted to the NWCAA;

i) Permission to operate shall not exceed ninety (90) operating days in any calendar year anywhere within the jurisdiction of the NWCAA. The NWCAA may set specific conditions for operating during that time period. No source shall continue to operate beyond the allowable 90-day period unless an Order of Approval to Construct, or for nonroad engines, a regulatory order, has been issued by the NWCAA. For the purpose of this section, an operating day shall be con-

sidered any time equipment operates within a calendar day; and

j) Except for nonroad engines, based on the source type and emission quantity, temporary sources may be subject to new source review at the discretion of the Control Officer.

PASSED: November 12, 1998 AMENDED: March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, November 17, 2011

AMENDATORY SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA, and for each proposed revision to an Order of Approval to Construct (OAC) for which there is no associated NOC application. The internet notice shall remain on the NWCAA website for a minimum of 15 consecutive days and shall include the following information:

(1) name and location of the affected facility,

(2) brief description of the proposed action, and

(3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period shall be received by the NWCAA via letter, facsimile, or electronic mail within 15 days of the initial date of the internet posting. A public notice and comment period shall be provided in accordance with this Section, for any NOC application or proposed OAC revision that receives such a request. Any NOC application or proposed OAC revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period.

305.2 Actions Requiring Public Notice and Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with 305.3 through 305.8 of this Section, before approving or denying any of the following types of applications or other actions:

(1) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2005) as part of review under Section 300 of this Regulation;

(2) Any order to determine Reasonably Available Control Technology (RACT);

(3) Any order to establish a compliance schedule or a variance;

(4) Any order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation;

(5) Any order to authorize an emissions bubble pursuant to WAC 173-400-120;

(6) Any regulatory order to establish or debit of emission reduction credits (ERC);

(7) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit;

(8) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area;

(9) The original issuance and any revisions to a general Order of Approval issued under WAC 173-400-560;

(10) Any Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest;

(11) Any Notice of Construction application or proposed Order of Approval to Construct revision that receives a request for a public comment period in accordance with 305.1 of this Section.

(12) Any Notice of Construction application or proposed Order of Approval to Construct revision that would result in a significant emissions increase defined as follows.

Air Pollutant	Potential to Emit in Tons per Year
Carbon Monoxide (CO)	100.0
Volatile Organic Compounds (VOC)	40.0
Sulfur Dioxide (SO ₂)	40.0
Nitrogen Oxides (NO _x)	40.0
Particulate Matter (PM)	25.0
Fine Particulate Matter (PM-10)	15.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid Mist (H ₂ SO ₄)	7.0
Hydrogen Sulfide (H ₂ S)	10.0
Total Reduced Sulfur (including H ₂ S)	10.0

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in WAC 173-401.

305.3 Public Comment Period

If required, a public comment period shall be initiated through publication of a legal notice in a local newspaper. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. The cost of providing legal notice shall be borne by the applicant. Public notice of any NOC application requiring a public comment period shall include the following:

(A) The NOC application and any written preliminary determination by the NWCAA shall be available on the NWCAA's internet website, excluding any confidential information as provided in Section 114 of this Regulation. In addition, the NOC application and any written determination shall be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

(B) Publication of a legal notice in a newspaper of general circulation in the area of the proposed project which provides each of the following:

- (1) Name, location and a brief description of the project;
- (2) Location of documents made available for public inspection;
- (3) The deadline for submitting written comments;
- (4) A statement that any person, interested governmental agency, group, or the applicant may request a public hearing;
- (5) A statement that a public hearing may be held if the NWCAA determines within a 30-day period that significant public interest exists;
- (6) The date of the close of the public comment period in the event of a public hearing;

(C) Notice to the US Environmental Protection Agency Region 10 Regional Administrator.

305.4 Extent of Public Comment Period

The public comment period shall be the 30-day period following the date the public notice is first published, unless a public hearing is held. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, as specified in the notice of public hearing.

305.5 Public Hearings

Any person, interested governmental entity, group or the applicant, may request a public hearing within the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable. The NWCAA shall provide at least 30 days prior notice of any hearing.

305.6 Consideration of Public Comments

No final decision on any NOC application or OAC revision shall be made until all public comment periods have ended and any comments received have been considered.

305.7 Other Requirements of Law

Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section (e.g., SEPA). This subsection does not apply to an application for a "major modification" or an application from a "major stationary source".

305.8 Public Information.

All information provided to the public in accordance with this Section, except information protected from disclosure under any applicable law, including, but not limited to, NWCAA Section 114 and RCW 70.94.205, shall be available for public inspection at the NWCAA. This includes copies of Notices of Construction applications, orders, and modifications.

Passed: July 14, 2005 Amended: November 8, 2007, June 9, 2011, November 17, 2011

AMENDATORY SECTION

SECTION 321 - EXEMPTIONS FROM REGISTRATION

Exclusion from registration does not absolve the owner, lessee, or his registered agent from all other requirements of the Regulation of the NWCAA. Exemption from registration does not apply to any control facility or device required to be installed in order to meet the emission and/or ambient standards of this Regulation.

The following sources of air pollution are exempt from registration:

321.1 Motor vehicles.

321.2 Non-road engines (as defined in Section 216 of the FCAA).

321.3 Non-road vehicles (as defined in Section 216 of the FCAA).

321.4 Sources that require an air operating permit per Chapter 173-401 WAC.

321.5 The Control Officer may exempt sources having the potential to emit (uncontrolled) criteria air pollutants under the following thresholds:

a) 5 tons per year of carbon monoxide (CO);

b) 2 tons per year of nitrogen oxides (NO_x);

c) 2 tons per year of sulfur dioxide (SO₂);

d) 1.25 tons per year of particulate matter (PM);

e) 0.75 tons per year of fine particulate matter (PM₁₀);

f) 2 tons per year of volatile organic compounds (VOC's);

g) 0.005 tons per year of lead.

321.6 The Control Officer may exempt sources that do not emit measurable amounts of Class A or Class B toxic air pollutants specified in Chapter 173-460-150 WAC and Chapter 173-460-160 WAC.

PASSED: November 12, 1998 Amended: June 9, 2011, November 17, 2011

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

AMENDATORY SECTION

SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

322.1 Purpose. The purpose of this section is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation Chapter 173-401 of the Washington Administrative Code (WAC).

322.2 Applicability. The provisions of this section shall apply to all sources within the NWCAA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of Section 7661(a) of the FCAA or Chapter 173-401-300 WAC.

322.3 Compliance. It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of Chapter 173-401 WAC without complying with the provisions of Chapter 173-401 WAC and any permit issued under its authority.

322.4 Air Operating Permit Fees.

a) The NWCAA shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.

b) Commencing with the effective date of the operating permit program, the NWCAA shall assess and collect annual air operating permit fees in its jurisdiction for any source specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWCAA to administer the program shall be determined by a workload analysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:

1) Ten percent (10%) of the total fees shall be allocated equally among all affected sources.

2) Ninety percent (90%) of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:

Nitrogen oxides (NO_x);

Volatile organic compounds (VOC's);

Particulate matter with an aerodynamic particle diameter less than or equal to 10μ (PM₁₀);

Sulfur dioxide (SO₂);

Lead; and

Any pollutant subject to the requirements under Section 112(b) of the FCAA not included in any of the above categories.

c) Upon assessment by the NWCAA, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under this section within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under this section.

d) The NWCAA shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWCAA jurisdiction. Fees for the Department of Ecology shall be allocated to affected sources in the same manner specified in this section.

e) An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.

PASSED: November 12, 1998 Amended: November 12, 1999, June 9, 2011, November 17, 2011

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

WSR 11-24-004
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-18—Filed November 28,
 2011, 8:42 a.m., effective December 29, 2011]

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

Purpose: The rule incorporates the federal standards for carrier determinations and notice promulgated pursuant to P.L. 111-148 (2010, as amended) and regulations issued on June 24, 2011, amending 45 C.F.R. Part 147. The federal standards require a seventy-two hour notification of adverse determinations.

Citation of Existing Rules Affected by this Order:
 Amending WAC 284-43-410.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.530.

Other Authority: P.L. 111-148 (2010, as amended) and regulations issued on June 24, 2011, amending 45 C.F.R. Part 147.

Adopted under notice filed as WSR 11-17-126 on August 24, 2011.

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

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

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

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

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

Date Adopted: November 28, 2011.

Mike Kreidler
 Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2009-19, filed 11/10/10, effective 12/11/10)

WAC 284-43-410 Utilization review—Generally. (1) These definitions apply to this section:

(a) "Concurrent care review request" means any request for an extension of a previously authorized inpatient stay or a previously authorized ongoing outpatient service, e.g., physical therapy, home health, etc.

(b) "Immediate review request" means any request for approval of an intervention, care or treatment where passage of time without treatment would, in the judgment of the provider, result in an imminent emergency room visit or hospital admission and deterioration of the patient's health status. Examples of situations that do not qualify under an immediate review request include, but are not limited to, situations where:

(i) The requested service was prescheduled, was not an emergency when scheduled, and there has been no change in the patient's condition;

(ii) The requested service is experimental or in a clinical trial;

(iii) The request is for the convenience of the patient's schedule or physician's schedule; and

(iv) The results of the requested service are not likely to lead to an immediate change in the patient's treatment.

(c) "Nonurgent preservice review request" means any request for approval of care or treatment where the request is made in advance of the patient obtaining medical care or services and is not an urgent care request.

(d) "PostsERVICE review request" means any request for approval of care or treatment that has already been received by the patient.

(e) "Urgent care review request" means any request for approval of care or treatment where the passage of time could seriously jeopardize the life or health of the patient, seriously jeopardize the patient's ability to regain maximum function, or, in the opinion of a physician with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the request.

(2) Each carrier must maintain a documented utilization review program description and written clinical review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. Carriers must make clinical review criteria available upon request to participating providers. A carrier need not use medical evidence or standards in its utilization review of religious non-medical treatment or religious nonmedical nursing care.

(3) The utilization review program must meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter and must have staff who are properly qualified, trained, supervised, and supported by explicit written clinical review criteria and review procedures.

(4) Each carrier when conducting utilization review must:

(a) Accept information from any reasonably reliable source that will assist in the certification process;

(b) Collect only the information necessary to certify the admission, procedure or treatment, length of stay, or frequency or duration of services;

(c) Not routinely require providers or facilities to numerically code diagnoses or procedures to be considered for certification, but may request such codes, if available;

(d) Not routinely request copies of medical records on all patients reviewed;

(e) Require only the section(s) of the medical record during prospective review or concurrent review necessary in that specific case to certify medical necessity or appropriateness of the admission or extension of stay, frequency or duration of service;

(f) For prospective and concurrent review, base review determinations solely on the medical information obtained by the carrier at the time of the review determination;

(g) For retrospective review, base review determinations solely on the medical information available to the attending physician or order provider at the time the health service was provided;

(h) Not retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies at the time the care was rendered unless the prior authorization was based upon a material misrepresentation by the provider;

(i) Not retrospectively deny coverage or payment for care based upon standards or protocols not communicated to the provider or facility within a sufficient time period for the provider or facility to modify care in accordance with such standard or protocol; and

(j) Reverse its certification determination only when information provided to the carrier is materially different from that which was reasonably available at the time of the original determination.

(5) Each carrier must reimburse reasonable costs of medical record duplication for reviews.

(6) Each carrier must have written procedures to assure that reviews and second opinions are conducted in a timely manner.

(a) Review time frames must be appropriate to the severity of the patient condition and the urgency of the need for treatment, as documented in the review request.

(b) If the review request from the provider is not accompanied by all necessary information, the carrier must tell the provider what additional information is needed and the deadline for its submission. Upon the sooner of the receipt of all necessary information or the expiration of the deadline for providing information, the time frames for carrier review determination and notification must be no less favorable than federal Department of Labor standards, as follows:

(i) For immediate request situations, within one business day when the lack of treatment may result in an emergency visit or emergency admission;

(ii) For concurrent review requests that are also urgent care review requests, as soon as possible, taking into account the medical exigencies, and no later than twenty-four hours, provided that the request is made at least twenty-four hours prior to the expiration of previously approved period of time or number of treatments;

(iii) For urgent care review requests (~~received before July 1, 2011,~~) within forty-eight hours;

(iv) (~~For urgent care review requests received on or after July 1, 2011, within twenty-four hours;~~

~~(v))~~) For nonurgent preservice review requests, including nonurgent concurrent review requests, within five calendar days; or

~~((vi))~~ (v) For postservice review requests, within thirty calendar days.

(c) Notification of the determination must be provided as follows:

(i) Information about whether a request was approved or denied must be made available to the attending physician, ordering provider, facility, and covered person. Carriers must at a minimum make the information available on their web site or from their call center.

(ii) Whenever there is an adverse determination the carrier must notify the ordering provider or facility and the covered person. The carrier must inform the parties in advance whether it will provide notification by phone, mail, fax, or other means. For an adverse determination involving an urgent care review request, the carrier may initially provide notice by phone, provided that a written or electronic notification meeting United States Department of Labor standards is furnished within ~~((three days))~~ seventy-two hours of the oral notification.

(d) As appropriate to the type of request, notification must include the number of extended days, the next anticipated review point, the new total number of days or services approved, and the date of admission or onset of services.

(e) The frequency of reviews for the extension of initial determinations must be based on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(7) No carrier may penalize or threaten a provider or facility with a reduction in future payment or termination of participating provider or participating facility status because the provider or facility disputes the carrier's determination with respect to coverage or payment for health care service.

WSR 11-24-011

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-20—Filed November 29, 2011, 8:03 a.m., effective December 30, 2011]

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

Purpose: This new rule replaces the requirement for submission of fingerprint cards of the directors, officers, and significant shareholders of domestic life settlement applicants with a requirement to provide third party verification reports from an acceptable vendor.

Citation of Existing Rules Affected by this Order: Amending WAC 284-97-020.

Statutory Authority for Adoption: RCW 48.02.060 and 48.102.170.

Adopted under notice filed as WSR 11-21-095 on October 19, 2011.

A final cost-benefit analysis is available by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

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

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

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

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

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

Date Adopted: November 29, 2011.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2009-14, filed 1/27/10, effective 2/27/10)

WAC 284-97-020 Licensing requirements for life settlement providers. (1) The application form and instructions for obtaining a license as a life settlement provider are on the commissioner's web site at www.insurance.wa.gov.

(2) The application for a license as a life settlement provider shall furnish all of the applicable following information:

(a) The name of the applicant, its address, and organizational structure.

(b) Copies of its organizational documents, including but not limited to its: Articles of incorporation and any amendments thereto, certificate of incorporation and any amendments thereto, bylaws and any amendments thereto, partnership agreement and any amendments thereto, articles of association and any amendments thereto, certificate of formation of a limited liability company and any amendments thereto, and limited liability company agreement and any amendments thereto.

(c) The identity of all: Stockholders holding ten percent or more of the voting securities; investors holding a ten percent or greater interest; partners; corporate officers; trustees; if an association, all of the members; all of the members of a limited liability company; and parent and affiliate entities, together with a chart showing the relationship of the applicant to any parent, affiliated or subsidiary entities.

(d) A list of all stockholders holding ten percent or more of the voting securities, investors holding a ten percent or greater interest, partners, and officers of any parent or affiliate entities.

(e) Biographical affidavits of all its officers, directors, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association).

(f) For domestic life settlement providers, (~~fingerprints~~ ~~of~~) third-party verification reports from an acceptable vendor for all its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association). A vendor is acceptable if registered with the National Association of Insurance Commissioners' Uniform Certificate of Authority Application (NAIC UCAA) registry.

(g) A list of states in which the life settlement provider is licensed on the date of application, a copy of each effective license, and a list of the states in which it is or was doing business.

(h) A list of all business licenses from the federal and any state government, which has been issued to the applicant, together with a certificate of incorporation from the Washington secretary of state, and a statement showing the current

status of any such licenses, such as whether it has been revoked or suspended.

(i) A report stating whether any regulatory action, by any level of state or federal government, is pending or has been taken against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(j) A report stating whether any criminal action or civil action has been taken, or is pending, against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(k) A copy of its most recent financial and operating reports, audited and unaudited.

(l) Copies of documents filed with the federal Securities and Exchange Commission.

(m) A detailed plan of operations for the applicant's business, including but not limited to information regarding or identification of the following items in connection with the applicant's life settlement business:

(i) Escrow accounts and banks;

(ii) Advertising, brokerage, or distribution system to be used;

(iii) Marketing techniques to be used;

(iv) Marketing training program; and

(v) Contract offering and servicing facilities.

(n) For a nonresident provider, an appointment of the commissioner to receive service of process and a designation of the person to whom the commissioner shall forward legal process.

(o) A copy of the applicant's antifraud plan that meets the requirements of RCW 48.102.140.

(p) Such other information as the commissioner may reasonably require.

(3) To qualify for authority to transact business as a life settlement provider the applicant must possess unimpaired capital, and thereafter maintain unimpaired capital, in the amount of not less than one hundred fifty thousand dollars.

WSR 11-24-021

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 30, 2011, 10:56 a.m., effective January 1, 2012]

Effective Date of Rule: January 1, 2012.

Purpose: The department is amending WAC 388-478-0015 Need standards for cash assistance, in order to revise basic need standards for cash assistance based on the 2009 forecast. RCW 74.04.770 requires the department of social and health services to annually establish consolidated standards of need.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Adopted under notice filed as WSR 11-21-076 on October 18, 2011.

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

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

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

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

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

Date Adopted: November 28, 2011.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-01-121, filed 12/20/10, effective 1/1/11)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$((1,128)) <u>1,154</u>
2	((1,428)) <u>1,460</u>
3	((1,763)) <u>1,803</u>
4	((2,080)) <u>2,128</u>
5	((2,397)) <u>2,452</u>
6	((2,715)) <u>2,777</u>
7	((3,138)) <u>3,209</u>
8	((3,472)) <u>3,552</u>
9	((3,807)) <u>3,894</u>
10 or more	((4,142)) <u>4,237</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$((583)) <u>607</u>
2	((737)) <u>768</u>
3	((910)) <u>948</u>
4	((1,074)) <u>1,119</u>
5	((1,238)) <u>1,290</u>
6	((1,402)) <u>1,460</u>
7	((1,621)) <u>1,688</u>
8	((1,794)) <u>1,868</u>
9	((1,967)) <u>2,048</u>
10 or more	((2,139)) <u>2,228</u>

WSR 11-24-022
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 30, 2011, 2:00 p.m., effective January 1, 2012]

Effective Date of Rule: January 1, 2012.

Purpose: This rule making amends five rules to implement ESHB 1367 (chapter 190, Laws of 2011). This law requires for-hire vehicle owners to cover drivers for workers' compensation insurance and mandates coverage for owners. These amendments provide three reporting options: A flat rate per vehicle per quarter, a flat rate per driver per quarter, or actual hours worked if appropriate records are kept.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-31002, 296-17-35203, 296-17A-1401, 296-17A-1404, and 296-17A-6301.

Statutory Authority for Adoption: RCW 51.04.020, 51.16.035, and 51.16.100.

Adopted under notice filed as WSR 11-17-107 on August 23, 2011.

Changes Other than Editing from Proposed to Adopted Version: In response to stakeholder comments, a change was made from the originally proposed rule adding a new sub-classification for reporting flat rate per driver each quarter. Additionally, the proposal allowed the owner to report both flat rate and actual hours; whereas in the adoption, the owner must choose between reporting a flat rate per driver or a flat rate per vehicle or actual hours worked.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

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

Date Adopted: November 30, 2011.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 10-10-108, filed 5/4/10, effective 7/1/10)

WAC 296-17-31002 General rule definitions. In developing the general reporting rules and classifications which govern Washington's workers' compensation classification plan, we have used certain words or phrases which could have several meanings. Many of these words or phrases are defined by law in the Revised Code of Washington (*Title 51 RCW*) and can be found in **Appendix A** of this manual. Some words, however, are not defined by law. To reduce the misunderstanding which can result by our use of

certain words or phrases not defined in law (*Title 51 RCW*), we have developed definitions which will govern what these words and phrases mean for purposes of these chapters (*chapters 296-17 and 296-17A of the Washington Administrative Code (WAC)*).

The following words or phrases mean:

Account: A unique numerical reference that we assign to you that identifies your business or businesses and allows us to track exposure that you report to us and losses (*claims*) which we pay on your behalf.

Account manager: An individual who works in the underwriting section of the department of labor and industries and manages an employer's workers' compensation insurance account. An account manager is also referred to as an underwriter.

Actual hours worked: A worker's composite work period beginning with the starting time of day that the employee's work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by an employee. The following example is provided to illustrate how work hours are to be reported. If you have questions on reporting please contact our underwriting section at 360-902-4817.

Example: *A carpet installer arrives at the employer's place of business at 8:00 a.m. to pick up supplies, carpet, and the job assignment. The carpet installer arrives at the job site at 9:00 a.m. and works until 12 noon. The installer takes a half hour nonpaid lunch period and resumes working from 12:30 p.m. until 4:00 p.m. The installer then returns to the employer's premise to drop off supplies and carpet waste. The installer leaves the employer's premise at 5:30 p.m. The employer is to report nine hours of work time regardless of whether the employee is paid by the hour or by the number of yards of carpet installed.*

All: When a classification contains a descriptive phrase beginning with "all" such as in "all employees," "all other employees," "all operations," or "all work to completion," it includes all operations and employments which are normally associated with the type of business covered by the classification. This condition applies even if the operations or employments are physically separated or conducted at a separate location. Operations or employments are to be classified separately when the classification wording requires it, or when the operations or employments are not incidental to, and not usually associated with, the business described by the classification.

And: When this word is contained in any rule it is to be considered the same as the phrase "and/or."

Basic classification: A grouping of businesses or industries having common or similar exposure to loss without regard to the separate employments, occupations or operations which are normally associated with the business or industry. Basic classifications describe a specific type of business operation or industry such as mechanical logging, sawmills, aircraft manufacturing, or restaurants. In most business operations some workers are exposed to very little hazard, while others are exposed to greater hazard. Since a basic classification reflects the liability (*exposure to hazard*) of a given business or industry, all the operations and occupa-

tions that are common to an industry are blended together and included in the classification. The rate for a basic classification represents the average of the hazards within the classification. All classifications contained in this manual are considered basic classifications with the exception of classifications 4806, 4900, 4904, 5206, 6301, 6302, 6303, 7100, 7101, and temporary help classifications 7104 through 7122. Classification descriptions contained in WAC 296-17A-0101 through 296-17A-7400 establish the intended purpose or scope of each classification. These descriptions will routinely include types of businesses, operations, processes or employments which are either included or excluded from the classification. These references are not to be considered an all inclusive listing unless the classification wording so specifies.

Bone fide officer: Any person empowered in good faith by stockholders or directors, in accordance with articles of incorporation or bylaws, to discharge the duties of such officer.

But not limited to: When this phrase is used in any rule in this manual it is not to be interpreted as an all inclusive list. Such a list is meant to provide examples of operations, employments, processes, equipment or types of businesses which are either included or excluded from the scope of the classification.

Excludes or excluding: When a classification contains a descriptive phrase beginning with "excludes" or "excluding" such as "excluding drivers or delivery," "excluding second hand appliance stores," or "excludes construction operations," you must report those operations in a separate classification. If a business fails to keep the records required in the auditing recordkeeping section of this manual and we discover this, we will assign all workers hours for which records were not maintained to the highest rated classification applicable to the work which was performed.

Exposure: Worker hours, worker days, flat rate, licenses, material, payroll or other measurement which we use to determine the extent to which an employer's workers have been exposed to the hazards found within a particular business or industry classification.

Free from direction or control: The contracted individual has the responsibility to deliver a finished product or service without the contracting firm or individual either exercising direct supervision over the work hours or the methods and details of performance or having the right to exercise that authority under the contract.

Includes or including: When a classification contains a descriptive phrase beginning with "includes" or "including" such as "including clerical office," "including meter readers," or "includes new construction or extension of lines," you must report these operations in that basic classification even though they may be specifically described by some other classification contained in this manual or may be conducted at a separate location.

Industrial insurance: Refer to the definition of "workers' compensation insurance."

N.O.C.: This abbreviation stands for not otherwise classified. Classifications are often worded in this way when there are many variations of the same general type of business and it would be nearly impossible to list all the varia-

tions. Before a classification designated with N.O.C. is used, all other related classifications must be reviewed to determine if the business or industry is specified in another classification.

Example: *You operate a retail store that sells greeting cards. In our search to classify your business we come across a classification that covers retail stores N.O.C. Before our underwriter assigns this classification to your business, they would look at other retail store classifications to see if a more precise classification could be found. In our review we note several classifications such as grocery and department stores where greeting cards are sold. None of these classifications, however, specify that they include stores that exclusively sell greeting cards. Classification 6406 "Retail stores, N.O.C.," on the other hand, contains language in its description that states it includes stores that sell items such as greeting cards, table top appliances, tropical fish and birds, and quick print shops. We would assign classification 6406 "Retail stores, N.O.C." to your business.*

Or: Refer to the definition of the word "and."

Premium: The total amount of money owed to the department of labor and industries as calculated by multiplying the assigned classification composite rate by the total units of exposure.

Principal place of business: The physical location of the business from which the contract of service is directed and controlled.

Rate: The amount of premium due for each unit of exposure. All rates are composite rates per worker hour except as otherwise provided for by other rules in this manual.

Related by blood within the third degree: The degree of kinship as computed according to the rules of civil law.

Related by marriage: The union subject to legal recognition under the domestic relations laws of this state.

Risk: All insured operations of one employer within the state of Washington.

Temporary help: The term "temporary help" means the same as temporary service contractors defined in (Title 19 RCW) and applies to any person, firm, association or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

Underwriter: Refer to the definition of an "account manager."

Within a reasonable period: Establishing an account with state agencies shall be the time prior to the first date on which the individual begins performance of service toward the contract or the date upon which the individual is required to establish an account with a state agency, as otherwise required by law, whichever event shall last occur.

Work day: Any consecutive twenty-four hour period.

Work hour: Refer to the definition of "actual hours worked."

Workers' compensation insurance: The obligation imposed on an employer by the industrial insurance laws (Title 51 RCW) of the state of Washington to insure the payment of benefits prescribed by such laws.

AMENDATORY SECTION (Amending WSR 10-21-089, filed 10/20/10, effective 1/1/11)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned and under contract to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance. Athletes assigned to a Washington-domiciled sports team but under contract with a parent team domiciled outside of the state are mandatorily covered by Washington industrial insurance unless the player is eligible for coverage in another state, and there is a valid coverage agreement as described below.

A player is eligible for coverage in another state only when both the player and the employer agree in writing that the employment is principally localized in that state.

Example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they cannot agree to be under California coverage since California doesn't qualify as a state in which the player competes in regularly scheduled games.

(a) Upon request, the department will provide forms to the owners of professional and semiprofessional sports teams for entering into agreements for both the sport player and the sport team. These agreements are referred to as "coverage agreements." Unless coverage is refused in the alternative state, the coverage agreement will determine the worker's home state for workers' compensation coverage.

(b) When a sport team and a player agree to workers' compensation coverage in another state, the following rules apply:

Sport player coverage agreement:

(i) A sport player coverage agreement must be signed by the team (employer) and each individual player (worker) covered out-of-state. Workers' compensation premiums for any work performed by the player before the agreement was signed must be paid to the department. To be valid, an agreement must be:

- Signed by both parties, dated, and show the name of the state where coverage is provided.
- Agree that the player's employment is principally located in that state.
- Kept as part of the employer's records for at least three years after the player is released from the team.

(ii) The employer must provide the department a copy of a sport player coverage agreement when requested. Employers who do not provide the department copies of a sport player coverage agreement when requested are considered not to have secured payment of compensation as required and all premiums and penalties allowed for in Title 51 RCW will apply.

(iii) If the employers' out-of-state workers compensation insurer rejects an injury claim because the player is a Washington worker, the employer is considered not to have secured payment of compensation as required and all premium and penalties allowed for in Title 51 RCW apply.

Sport team coverage agreement:

(c) A sport team coverage agreement must be signed by the employer (team) and the qualifying out-of-state workers'

compensation insurer. Workers' compensation premiums for work performed before the agreement was signed must be paid to the department. To be valid, an agreement must:

- Be signed by both parties, dated, and show the name of the state where coverage is provided.
- Specify that the team's players are principally localized in that state.
- Specify the insurer agreeing to provide coverage for a team based in Washington.

(d) The sport team coverage agreement must be signed annually. Copies of the agreement along with a current copy of the team's out-of-state insurance policy must be submitted to the department of labor and industries every year the out-of-state coverage is provided.

Premium payments are required for any work performed by Washington players prior to the date the department receives copies of any year's current sports teams' coverage agreement and proof of out-of-state coverage.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when

requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

- (i) The name of each worker;
- (ii) The Social Security number of each worker;
- (iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;
- (iv) The basis upon which wages are paid to each worker;
- (v) The number of units earned or produced for each worker paid on a piece-work basis;
- (vi) The risk classification(s) applicable to each worker;
- (vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;

(viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;

(ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;

(x) The workers' total gross pay period earnings;

(xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;

(xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and canceled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - Estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the

department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(A) The employers' unified business identification account number (UBI).

(B) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(C) The total contract award.

(D) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(E) Physical location/site where the work will be performed including legal description.

(F) Number of acres covered by the contract.

(G) Dates during which the work will be performed.

(H) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This

notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - Verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The entity that awarded the contract can verify the status of the contractors' account online at the department's web site (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - Work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

(i) The name of the contractor who has been engaged to perform the work;

(ii) The contractor's UBI number;

(iii) The contractor's farm labor contractor number;

(iv) The total contract award;

(v) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;

(vi) Location where the work is to be performed;

(vii) A contact name and phone number of the person, firm, or corporation who let the contract;

(viii) The total estimated wages to be paid by the contractor and any subcontractors;

(ix) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;

(x) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;

(j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
Reforestation Team 8
P.O. Box 44168
Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) **Logging and/or tree thinning—Mechanized operations—Industry rule.** The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17A-5005.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - Mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) **Special drywall industry rule.**

(a) **What is the unit of exposure for drywall reporting?** Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) **I do some of the work myself. Can I deduct material I as an owner install or finish?** Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You

must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) **Can I deduct material installed or finished by subcontractors?** You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) **I understand there are discounted rates available for the drywall industry. How do I qualify for them?** To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) **Can I be disqualified from using the discounted rates?** Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) **If I discover I have made an error in reporting or paying premium, what should I do?** If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

(7) **Safe patient handling rule.** The following subsection will apply to all hospital industry employers as applicable.

(a) Definitions. For the purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Hospital" means an "acute care hospital" as defined in (a)(ii) of this subsection, a "mental health hospital" as defined in (a)(iii) of this subsection, or a "hospital, N.O.C. (not otherwise classified)" as defined in (a)(iv) of this subsection.

(ii) "Acute care hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this rule does not include:

Hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include

Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include

Nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include

Birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include

Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; nor

Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(ii) "Mental health hospital" means any hospital operated and maintained by the state of Washington for the care of the mentally ill.

(iv) "Hospitals, N.O.C." means health care facilities that do not qualify as acute care or mental health hospitals and may be privately owned facilities established for purposes such as, but not limited to, treating psychiatric disorders and chemical dependencies or providing physical rehabilitation.

(v) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistance devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring and repositioning health care patients.

(vi) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(vii) "Department" means the department of labor and industries.

(b) Hospitals will report worker hours in the risk classification that describes the nature of their operations and either their level of implementation of, or need for, the safe patient handling program.

(c) A fully implemented safe patient handling program must include:

(i) Acquisition of at least the minimum number of lifts and/or appropriate equipment for use by lift teams as specified in chapters 70.41 and 72.23 RCW.

(ii) An established safe patient handling committee with at least one-half of its membership being front line, nonmanagerial direct care staff to design and recommend the process for implementing a safe patient handling program.

(iii) Implementation of a safe patient handling policy for all shifts and units.

(iv) Conducting patient handling hazard assessments to include such variables as patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas.

(v) Developing a process to identify appropriate use of safe patient handling policy based on a patient's condition and availability of lifting equipment or lift teams.

(vi) Conducting an annual performance evaluation of the program to determine its effectiveness with results reported to the safe patient handling committee.

(vii) Consideration, when appropriate, to incorporate patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date during new construction or remodeling.

(viii) Development of procedures that allow employees to choose not to perform or participate in patient handling activities that the employee believes will pose a risk to him/herself or to the patient.

(d) Department staff will conduct an on-site survey of each acute care and mental health hospital before assigning a risk classification. Subsequent surveys may be conducted to confirm whether the assigned risk classification is still appropriate.

(e) To remain in classification 6120-00 or 7200-00, a hospital must submit a copy of the annual performance evaluation of their safe patient handling program, as required by chapters 70.41 and 72.23 RCW, to the Employer Services Program, Department of Labor and Industries, P.O. Box 44140, Olympia, Washington, 98504.

(8) Rules concerning work by Washington employers outside the state of Washington (extraterritorial coverage).

(a) **General definitions.** For purposes of this section, the following terms mean:

(i) "Actual hours worked" means the total hours of each Washington worker's composite work period during which work was performed by the worker beginning with the time the worker's work day commenced, and ending with the quitting time each day excluding any nonpaid lunch period.

(ii) "Work day" means any consecutive twenty-four-hour period.

(iii) "Temporary and incidental" means work performed by Washington employers on jobs or at job sites in another state for thirty or fewer consecutive or nonconsecutive full or partial work days within a calendar year. Temporary and incidental work days are calculated on a per state basis. The thirty-day temporary and incidental period begins on January 1 of each year.

(iv) "Proof of out-of-state coverage" means a copy of a valid certificate of liability insurance for workers' compensation issued by:

(A) An insurer licensed to write workers compensation insurance coverage in that state; or

(B) A state workers' compensation fund in the state in which the employer will be working.

Note: Most certificates are written for a one-year period. The employer must provide the department with a current certificate of liability insurance for workers' compensation covering all periods the employer works in another state. If the policy is canceled, the employer must provide the department with a current in-force policy.

(v) "Worker" means every person in this state who is engaged in the employment of an employer under Title 51 RCW whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer whether by way of manual labor or otherwise.

(vi) "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of Title 51 RCW, by way of trade or business, or who contracts with one or more workers,

the essence of which is the personal labor of such worker or workers.

(b) Does a Washington employer have to pay premiums in both states while Washington workers are temporarily working in another state? A Washington employer must continue to pay Washington premiums for Washington workers performing temporary and incidental work in another state. If the Washington employer has Washington workers who work for more than thirty days in another state, it will not need to pay premiums in Washington for work in the other state during the calendar year, as long as it fulfills the following requirements:

(i) Provides the department with proof of out-of-state coverage for the Washington workers working out-of-state.

(ii) Keeps the policy continuously in force from the date the Washington employer's work exceeds the temporary and incidental period until the date the Washington employer no longer has Washington workers working in the other state. Failure to maintain a policy at the required level of workers' compensation coverage for the number of Washington workers working out-of-state may subject the Washington employer to payment of all premiums, penalties, and interest dues in the state of Washington.

(iii) For the first quarterly reporting period and all subsequent quarters during the same calendar year following the date the Washington employer's work exceeds the temporary and incidental period in the other state, the Washington employer must file a supplemental report of out-of-state work with their workers' compensation employer's quarterly report with the department. This supplemental report is available at: <http://www.LNI.wa.gov/ClaimsIns/Insurance/File/ExtraTerritorial/Default.asp>

(iv) Subitems (b)(i), (ii), and (iii) of this subsection must be met in each state in which the Washington employer has Washington workers working in excess of the temporary and incidental period.

Note: Workers' compensation coverage requirements vary widely among states. Washington employers should contact the regulatory agency in other states to determine the appropriate premium and coverage obligations in those states.

(c) What if a Washington employer knows the Washington workers work in another state will exceed the temporary and incidental period? If the Washington employer knows their Washington workers will be working in another state in excess of the temporary and incidental period, it must immediately provide the department with proof of out-of-state coverage in order to avoid Washington premium liability for hours worked during the temporary and incidental period.

Reminder: The temporary and incidental period applies separately to each state in which the Washington employer worked.

(d) What if a Washington employer anticipates its out-of-state work will exceed the temporary and incidental period, but it does not occur? If a Washington employer did not pay workers compensation premium to Washington during the temporary and incidental period, and at the end of the calendar year Washington workers of the Washington employer had worked fewer than thirty consecutive or non-consecutive days in another state, by the filing of the fourth

quarter report, the Washington employer must file amended reports for the calendar year. The employer may be required to pay Washington premiums, penalties, and interest. The fourth quarter report is due by January 31 of the following year.

(e) **What records must the employer keep while employing Washington workers in another state?** In addition to filing the supplemental report of out-of-state work, the Washington employer is required to keep the same records that are kept for Washington workers working in Washington. The records are listed in WAC 296-17-35201 and must be provided at the time of audit to any authorized representative of the department who has requested them.

(f) **What reports does a Washington employer file to avoid paying Washington workers' compensation premiums when employing Washington workers in another state for work that exceeds temporary and incidental?** A Washington employer must submit the workers' compensation employer's quarterly report and a supplemental report of out-of-state work to the department for each state in which it has Washington workers performing work. The supplemental report must include the following information:

(i) The Washington employer's unified business identification number (UBI).

(ii) The Washington employer's department account identification number.

(iii) The Social Security numbers for those Washington worker(s) performing work out-of-state.

(iv) The last name, first name, and middle initial of those Washington worker(s) performing work out-of-state.

(v) The gross payroll paid during the quarter for those Washington worker(s) performing work out-of-state.

(vi) The Washington workers' compensation risk classification(s) that would have applied for each Washington worker performing work out-of-state.

(vii) The total number of hours that each Washington worker performed work out-of-state during the quarter.

(viii) In addition to completing the supplemental report of out-of-state work, the Washington employer must keep a record of all contracts awarded and worked under each state. Copies of pertinent records must be made available to auditors in the event of an audit.

(g) **Where do Washington workers file their workers' compensation claims if injured in the course of employment outside of Washington state?** Washington workers may file their claim in the state where they were injured or in Washington state.

Washington employers must inform their Washington workers of their right to file for workers' compensation benefits in Washington or the state of injury.

The cost of these claims, if accepted by the department and assigned to the Washington employer's account, will be used in the calculations that determine the employer's experience factor and the appropriate risk classification base rate.

(h) **If the Washington employer's work in another state exceeds the temporary and incidental period, may the Washington employer obtain a credit or refund for the temporary and incidental period that workers' compensation premiums were paid to Washington?** Yes, but only if the Washington employer:

(i) Obtained workers' compensation insurance for all hours worked in the other state during the calendar year;

(ii) Provides proof of out-of-state coverage;

(iii) Filed the appropriate quarterly reports with the department when due; and

(iv) Otherwise complied with all statutory and regulatory requirements of Washington state.

(9) Special for-hire taxi/industry rules. All for-hire vehicles must be covered for workers' compensation insurance. The owner of the vehicle is responsible for the workers' compensation insurance premiums. Those businesses that provide only cabulance or limousine services must report actual hours worked.

(a) What is the unit of exposure for taxis? Flat rate by driver - The rate is based on four hundred eighty hours per driver each quarter.

Flat rate by vehicle - The rate is based on nine hundred sixty hours per vehicle each quarter.

Actual hours - The rate is based on actual hours worked.

(b) Can I use a flat rate for reporting some vehicles and actual hours for reporting other vehicles? No, you must choose to report using only one of the three methods: Flat rate per driver, flat rate per vehicle, or actual hours worked. Owners who choose to report by driver or by actual hours worked must maintain verifiable records, such as lease agreements or payroll records. For vehicles where verifiable records are not available or not maintained, the owner must pay premiums on the flat rate of nine hundred sixty hours per vehicle each quarter.

(c) What happens if premiums are not paid? If the for-hire/taxi vehicle owner does not pay premiums, the department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1401 Classification 1401.

1401-01 Taxicab companies - Flat rate by driver

Applies to establishments engaged in furnishing passenger transportation to others. Work contemplated by this classification includes, but is not limited to, operation of the vehicle, loading/unloading passengers' luggage, assisting passengers in and out of the vehicle, pickup and delivery of small packages, and incidental "cabulance" services which may be offered in conjunction with the taxi service (~~and maintenance/repair of the vehicle when performed by employees of an employer subject to this classification. Businesses that operate pedicab and horse-drawn carriage services are included in this classification~~). This classification is for reporting drivers on a flat rate of four hundred eighty hours per driver each quarter.

This classification excludes: Owners who choose to report using a flat rate per vehicle who report in classification 1401-02; owners who choose to report actual hours who report in classification 1401-03; maintenance/repair of the vehicle which is to be reported in 3411; establishments that operate ambulance services which are to be reported sepa-

rately in classification 1405; establishments that operate cabulance and paratransit services exclusively which are to be reported separately in classification 1404; and dispatchers with no other job duties who may be reported separately in classification 4904.

Special note: Establishments that furnish only a dispatch service for taxicab drivers who own or lease their own vehicles may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met. Employees of a taxicab dispatch service who perform maintenance/repair are to be reported separately in classification 3411. See RCW 51.08.180 for the definition of "worker" to aid in determining if drivers are employees. Please also refer to the special note in classification 1404-12.

Special note: Vehicle owners are responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

1401-02 Taxicab companies - Flat rate by vehicle

Applies to establishments engaged in furnishing passenger transportation to others. Work contemplated by this classification includes, but is not limited to, operation of the vehicle, loading/unloading passengers' luggage, assisting passengers in and out of the vehicle, pickup and delivery of small packages, and incidental "cabulance" services which may be offered in conjunction with the taxi service. This classification is for reporting vehicles on a flat rate of nine hundred sixty hours per vehicle each quarter.

This classification excludes: Owners who choose to report using a flat rate per driver who report in classification 1401-01; owners who choose to report actual hours worked who report in classification 1401-03; maintenance/repair of the vehicle which is to be reported in 3411; establishments that operate ambulance services which are to be reported separately in classification 1405; establishments that operate cabulance and paratransit services exclusively which are to be reported separately in classification 1404; and dispatchers with no other job duties who may be reported separately in classification 4904.

Special note: Establishments that furnish only a dispatch service for taxicab drivers who own or lease their own vehicles may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met. Employees of a taxicab dispatch service who perform maintenance/repair are to be reported separately in classification 3411. See RCW 51.08.180 for the definition of "worker" to aid in determining if drivers are employees. Please also refer to the special note in classification 1404-12.

Special note: Vehicle owners are responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

1401-03 Taxicab companies - Actual hours

Applies to establishments engaged in furnishing passenger transportation to others. Work contemplated by this clas-

sification includes, but is not limited to, operation of the vehicle, loading/unloading passengers' luggage, assisting passengers in and out of the vehicle, pickup and delivery of small packages, and incidental "cabulance" services which may be offered in conjunction with the taxi service. This classification is for reporting taxis on an actual hours basis.

This classification excludes: Owners who choose to report using a flat rate per driver who report in classification 1401-01; owners who choose to report a flat rate per vehicle who report in classification 1401-02; maintenance/repair of the vehicle which is to be reported in 3411; establishments that operate ambulance services which are to be reported separately in classification 1405; establishments that operate cabulance and paratransit services exclusively which are to be reported separately in classification 1404; and dispatchers with no other job duties who may be reported separately in classification 4904.

Special note: Establishments that furnish only a dispatch service for taxicab drivers who own or lease their own vehicles may be reported separately in classification 4904 provided all the conditions of the general reporting rules covering standard exception employees have been met. Employees of a taxicab dispatch service who perform maintenance/repair are to be reported separately in classification 3411. See RCW 51.08.180 for the definition of "worker" to aid in determining if drivers are employees. Please also refer to the special note in classification 1404-12.

Special note: Vehicle owners are responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

1401-04 Pedicab and horse-drawn carriage companies

Applies to establishments engaged in furnishing passenger transportation to others using pedicab or horse-drawn carriage.

Work contemplated by this classification includes, but is not limited to, operation of the vehicle, loading/unloading passengers' luggage, and assisting passengers in and out of the vehicle. This classification also includes the care and feeding of animals while vehicle is available for transporting passengers.

Businesses using this classification report the actual hours of operation per for-hire vehicle and must maintain records that are verifiable.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1404 Classification 1404.

1404-06 Vessels, ferries, tugs, and steamboats, N.O.C.

Applies to employees not covered under federal jurisdiction, or another classification (N.O.C.), who provide services for seaworthy vessels such as ferries, tugs, or steamboats at the docking site or on adjacent land. Vessels may operate seasonal or year-round. Employments include, but are not limited to, dock workers, maintenance workers, traffic control personnel, and night security personnel.

Special note: Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classifications 0104 or 0202.

1404-07 Train rides

Applies to establishments engaged in the operation of passenger excursion train rides for scenic or amusement purposes on an intrastate basis only. Excursion train rides are typically operated from a mountain, lake or similar site. The trains may operate on a seasonal basis in direct relation to the volume of tourists, weather conditions, or dates of local celebration. Employments in this classification include, but are not limited to, drivers/engineers, guides, lecturers, hostesses, and maintenance personnel. Ticket sellers may be reported separately in classification 4904 provided that they do not handle baggage and that the conditions of the standard exception general reporting rules have been met. On-board food service personnel may be reported separately in classification 3905 as long as their duties are limited to food service and they do not facilitate the train ride or train ride operation in any way.

1404-11 Escort and pilot cars

Applies to establishments that provide escort or pilot car services for others. The duties include driving ahead of, or behind, various types of vehicles.

This classification excludes employees of an employer assigned to drive escort or pilot cars in connection with the delivery of equipment, buildings, goods, or similar items which the employer sells or contracts to deliver. Such employment is to be reported separately in the classification applicable to sales or delivery of such items. For example, an escort driver employed by a common carrier transporting a modular home to a customer's site is to be reported separately in classification 1102.

1404-12 Cabulance and paratransit

Applies exclusively to establishments that provide on-demand, nonemergency transportation services to passengers with special needs. Vehicles used are usually vans that are equipped for accessibility to accommodate passengers with mobility limitations including passengers in wheelchairs or gurneys. Work contemplated by this classification includes, but is not limited to, operation of the vehicle, assisting passengers in and out of the vehicle, and maintenance/repair of the vehicle when performed by employees of an employer subject to this classification.

This classification excludes: Cabulance services offered in conjunction with a taxi service which are to be reported separately in classification 1401, cabulance services offered in conjunction with an ambulance service which are to be reported separately in classification 1405, paratransit services offered in conjunction with a municipal bus or transit system which are to be included in classification 0803 or 1501 as appropriate, ambulance services which are to be reported separately in classification 1405, limousine drivers who are to be reported separately in classification 6301, and dispatchers with no other duties who are to be reported separately in classification 4904.

Special note: Care should be exercised in determining what type of cabulance service is being provided. This classification *is not to be* assigned when provided as an incidental part of a taxi cab service subject to classification 1401. A cabulance service as defined in this rule will need a specialized van or bus to transport passengers as opposed to a passenger automobile that is not equipped to accommodate special mobility needs(~~(, and whereby)~~). ~~The transportation service ((has been))~~ must be prearranged.

Special note: Vehicle owners are responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-6301 Classification 6301.

6301-00 Sales personnel: Vehicles and marine pleasure craft

Applies to sales employees of establishments engaged in selling and/or leasing new and/or used automobiles, trucks, campers, recreational vehicles, mobile homes, motorcycles or other all-terrain vehicles, or boats and other marine pleasure craft and who are not covered by another classification assigned to the employer's account. Duties contemplated by this classification are limited to sales training, test driving, showing and demonstrating vehicles, completing paper work, and arranging for delivery of purchased vehicles.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6301-06 Instructors of driving schools

Applies to instructors of driving schools. Instructors duties include, but are not limited to, demonstrating driving techniques, and observing student drivers.

This classification excludes administrative staff and classroom instructors of driving schools who are to be reported separately in classification 6103; vehicle repair or maintenance staff who are to be reported separately in classification 3411; and high school driving instructors who are to be reported separately in classification 6104.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

6301-07 Limousine drivers

Applies to drivers of establishments engaged in providing limousine services to others. Limousine services provide luxury transportation for special occasions such as, but not limited to, birthday parties, weddings, dances, sporting events, concerts, and corporate business functions. Clients usually travel in groups from two to ten. Drivers are professionally trained chauffeurs; they generally provide services by appointment from specific locations to set destinations, and often wait with the vehicle while clients attend events. Depending on the occasion, the limousine service may also

provide beverages, snacks, balloons, or flowers. Since the service is intended for luxury as opposed to meeting deadlines, the hazards of driving differ from most other professional drivers.

This classification excludes employees who repair and/or service the company's limousines who are to be reported separately in classification 3411.

Special note: This is a restrictive classification; the qualifying factor is that all the conditions of the general reporting rules covering standard exception employees have been met.

Special note: Clerical office employees may be reported separately in classification 4904 provided all the conditions of the general reporting rule covering standard exception employees have been met.

Special note: Vehicle owners are responsible for payment of workers' compensation premiums. The department will report nonpayment to the department of licensing. The department of licensing will suspend or revoke the for-hire vehicle certificate until the premiums are paid.

WSR 11-24-026

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed December 1, 2011, 10:01 a.m., effective January 1, 2012]

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

Purpose: This rule will amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2012. Classification base rates are being amended to base the rates on updated loss and payroll experience, and to result in no overall increase in premium rates for 2012. This rule will add language to reflect the new stay-at-work program, created by EHB 2123 adopted by the 2011 legislature and signed by the governor. This rule will repeal rules related to the expired farm internship program.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-31024 Classification premium rates, 296-17-855 Experience modification, 296-17-870 Evaluation of actual losses, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class, 296-17-920 Assessment for supplemental pension fund [not attached to this filing], 296-17B-540 Determining loss incurred for each claim and 296-17B-900 Retrospective rating plans standard premium size ranges; and repealing WAC 296-17-89503 Farm internship program industrial insurance, accident fund and medical aid fund by class.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.08.010 (retrospective rating), and 51.04.020(1) (general authority).

Adopted under notice filed as WSR 11-19-096 on September 20, 2011.

Changes Other than Editing from Proposed to Adopted Version: The rules being adopted have the following changes from what was proposed:

- The rates in all classifications were reduced to change from the proposed 2.5 percent overall increase to no overall increase;
- Changes were made in the rates for the horseracing industry (WAC 296-17A-6622, 296-17A-6623);
- The base rates for risk classification 1401 (WAC 296-17A-1401) were reduced; and
- The wording of WAC 296-17-31024 was changed nonsubstantively to improve readability.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 13, Repealed 1.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 13, Repealed 1.

Date Adopted: December 1, 2011.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 05-12-031, filed 5/24/05, effective 7/1/05)

WAC 296-17-31024 Classification premium rates.
((+)) How do you determine what rate to charge me?
You are charged premiums using base rates for each of your risk classifications ~~((has corresponding base rates. The base rates assigned to your business will depend on the basic classification(s) assigned to your business.~~

(2) What do you mean by a base rate?

~~The base rate is a comparison of losses (claims) and exposure to produce a cost per unit of exposure. The base rate is an unmodified rate that all employers with an experience factor of 1.000 will pay in a specific classification.~~

(3) Do all employers in the same classification pay the base rate?

~~In practice, only a few employers pay the base rate. Most employers pay rates that are adjusted to take into account the employer's claims and premium reporting experience. We refer to those modified rates as experience rates. Your experience rate can be higher or lower than the base rate. This means that employers with fewer than expected~~

losses will pay less than employers in the same classification who have more than expected losses. Experience rating encourages strong safety and accident prevention programs. Details of how experience rating affects your premium are found in WAC 296-17-850 through 296-17-890. Your account manager can also answer questions about your individual experience factor. The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager). These premiums include rates for each of the four different premiums you are required to pay: Accident fund premiums, medical aid fund premiums, stay-at-work program premiums, and supplemental pension fund premiums. Your premiums for each classification are determined by multiplying your experience factor by the sum of the accident fund, medical aid fund and stay-at-work program base rates for that class, and then adding the supplemental pension fund rate.

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{(\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}) / \text{Expected Loss}}$$

Where

$$\begin{aligned} \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \\ \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of $\$((2,120))$ 2,330 or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
200	Medical Only	0	0	0
2,500	Medical Only	((380))	((380))	0
		<u>170</u>	<u>170</u>	
2,500	Time Loss	2,500	2,500	0
25,000	Medical Only	((22,880))	((21,686))	((1,194))
		<u>22,670</u>	<u>21,572</u>	<u>1,098</u>
25,000	Time Loss	25,000	22,785	2,215
100,000	PPD	100,000	38,627	61,373
2,000,000	TPD Pension	((233,084))	((44,518))	((188,566))
		<u>253,784</u>	<u>44,938</u>	<u>208,846</u>

Note: The deduction, $\$((2,120))$ 2,330, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses. The \$2,000,000 loss is limited by the Maximum Claim Value before the reduction of $\$((2,120))$ 2,330 is applied.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 09-16-109, filed 8/4/09, effective 10/1/09)

WAC 296-17-870 Evaluation of actual losses. (1) Except as provided in subsections (3) through (12) of this section, the actual losses for claims with a date of injury during the experience period will be evaluated on the "valuation date." Losses on claims occurring outside the experience period will not be included. The actual losses for closed claims must include:

- (a) Accident and medical aid payments; and
- (b) Pension reserve amounts paid by the accident fund; and
- (c) Accident and medical aid benefits or payments that are scheduled to be paid; and
- (d) Reserve for other accident and medical aid benefits accessible by the worker while the claim is closed.

The actual losses for claims that are open may, in addition, also include a reserve for future payments. Actual losses do not include wage subsidies or reimbursements paid by the stay-at-work program.

(2) **Valuation date.** The valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(3) **Retroactive adjustments - Revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

- (a) In cases where loss values are included or excluded through mistake other than error of judgment.
- (b) In cases where a third party recovery is made, subject to subsection (5)(a) of this section.
- (c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.
- (d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).
- (e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(4) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(5) **Third-party recovery - Effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such

time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(6) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(7) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(8) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(9) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged

to the employer's experience shall be limited as required by RCW 51.16.130.

(10) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(11) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

(12) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, ((2011)) 2012**

<u>((CLAIM VALUE)) TOTAL LOSS AFTER DEDUCTION</u>	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000
69,102	35,000
100,000	38,627
117,385	40,000
200,000	43,690
((233,084))	((44,518))
<u>253,784**</u>	<u>44,938</u>

** Maximum claim value

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2011)) 2012**

Maximum Claim Value = \$((233,084)) 253,784

Average Death Value = \$((233,084)) 253,784

((Expected Losses	Primary- Credibility	Excess- Credibility
+ - 7,989	12%	7%
7,990 - 8,528	13%	7%
8,529 - 9,074	14%	7%
9,075 - 9,625	15%	7%
9,626 - 10,182	16%	7%
10,183 - 10,748	17%	7%
10,749 - 11,320	18%	7%
11,321 - 11,900	19%	7%
11,901 - 12,487	20%	7%
12,488 - 13,082	21%	7%
13,083 - 13,687	22%	7%
13,688 - 14,299	23%	7%
14,300 - 14,920	24%	7%
14,921 - 15,553	25%	7%
15,554 - 16,195	26%	7%
16,196 - 16,845	27%	7%
16,846 - 17,509	28%	7%
17,510 - 18,183	29%	7%
18,184 - 18,871	30%	7%
18,872 - 19,572	31%	7%
19,573 - 20,286	32%	7%
20,287 - 21,015	33%	7%
21,016 - 21,759	34%	7%
21,760 - 22,519	35%	7%
22,520 - 23,298	36%	7%
23,299 - 24,096	37%	7%
24,097 - 24,916	38%	7%
24,917 - 25,756	39%	7%
25,757 - 26,622	40%	7%
26,623 - 27,513	41%	7%
27,514 - 28,434	42%	7%
28,435 - 29,388	43%	7%
29,389 - 30,376	44%	7%
30,377 - 31,405	45%	7%
31,406 - 32,479	46%	7%
32,480 - 33,604	47%	7%
33,605 - 34,791	48%	7%
34,792 - 36,049	49%	7%
36,050 - 37,393	50%	7%

((Expected Losses		Primary- Credibility	Excess- Credibility	((Expected Losses		Primary- Credibility	Excess- Credibility		
37,394	-	38,843	51%	7%	825,057	-	861,978	74%	30%
38,844	-	40,430	52%	7%	861,979	-	863,201	75%	30%
40,431	-	42,201	53%	7%	863,202	-	901,596	75%	31%
42,202	-	42,381	54%	7%	901,597	-	905,938	75%	32%
42,382	-	44,241	54%	8%	905,939	-	940,245	76%	32%
44,242	-	46,732	55%	8%	940,246	-	949,895	76%	33%
46,733	-	70,726	56%	8%	949,896	-	979,149	77%	33%
70,727	-	77,954	57%	8%	979,150	-	993,855	77%	34%
77,955	-	111,347	57%	9%	993,856	-	1,018,314	78%	34%
111,348	-	114,685	57%	10%	1,018,315	-	1,037,813	78%	35%
114,686	-	144,945	58%	10%	1,037,814	-	1,057,738	79%	35%
144,946	-	158,643	58%	11%	1,057,739	-	1,081,771	79%	36%
158,644	-	178,753	59%	11%	1,081,772	-	1,097,426	80%	36%
178,754	-	202,602	59%	12%	1,097,427	-	1,125,728	80%	37%
202,603	-	212,765	60%	12%	1,125,729	-	1,137,380	81%	37%
212,766	-	246,561	60%	13%	1,137,381	-	1,169,688	81%	38%
246,562	-	246,992	61%	13%	1,169,689	-	1,177,605	82%	38%
246,993	-	281,432	61%	14%	1,177,606	-	1,213,647	82%	39%
281,433	-	290,519	61%	15%	1,213,648	-	1,218,102	83%	39%
290,520	-	316,088	62%	15%	1,218,103	-	1,257,606	83%	40%
316,089	-	334,477	62%	16%	1,257,607	-	1,258,873	84%	40%
334,478	-	350,960	63%	16%	1,258,874	-	1,299,920	84%	41%
350,961	-	378,436	63%	17%	1,299,921	-	1,301,561	84%	42%
378,437	-	386,051	64%	17%	1,301,562	-	1,341,248	85%	42%
386,052	-	421,365	64%	18%	1,341,249	-	1,345,521	85%	43%
421,366	-	422,393	64%	19%	1,345,522	-	1,382,861	86%	43%
422,394	-	456,904	65%	19%	1,382,862	-	1,389,481	86%	44%
456,905	-	466,352	65%	20%	1,389,482	-	1,424,758	87%	44%
466,353	-	492,667	66%	20%	1,424,759	-	1,433,440	87%	45%
492,668	-	510,311	66%	21%	1,433,441	-	1,466,946	88%	45%
510,312	-	528,657	67%	21%	1,466,947	-	1,477,397	88%	46%
528,658	-	554,270	67%	22%	1,477,398	-	1,509,425	89%	46%
554,271	-	564,879	68%	22%	1,509,426	-	1,521,355	89%	47%
564,880	-	598,227	68%	23%	1,521,356	-	1,552,200	90%	47%
598,228	-	601,331	69%	23%	1,552,201	-	1,565,315	90%	48%
601,332	-	638,020	69%	24%	1,565,316	-	1,595,272	91%	48%
638,021	-	642,185	69%	25%	1,595,273	-	1,609,271	91%	49%
642,186	-	674,943	70%	25%	1,609,272	-	1,638,646	92%	49%
674,944	-	686,145	70%	26%	1,638,647	-	1,653,232	92%	50%
686,146	-	712,108	71%	26%	1,653,233	-	1,682,326	93%	50%
712,109	-	730,104	71%	27%	1,682,327	-	1,697,189	93%	51%
730,105	-	749,513	72%	27%	1,697,190	-	1,726,312	94%	51%
749,514	-	774,061	72%	28%	1,726,313	-	1,741,148	94%	52%
774,062	-	787,162	73%	28%	1,741,149	-	1,770,610	95%	52%
787,163	-	818,021	73%	29%	1,770,611	-	1,785,105	95%	53%
818,022	-	825,056	74%	29%	1,785,106	-	1,815,222	96%	53%

<u>((Expected Losses</u>		<u>Primary</u> <u>Credibility</u>	<u>Excess</u> <u>Credibility</u>	<u>Expected Losses</u>		<u>Primary</u> <u>Credibility</u>	<u>Excess</u> <u>Credibility</u>		
1,815,223	-	1,829,065	96%	54%	<u>11,286</u>	=	<u>11,886</u>	18%	7%
1,829,066	-	1,860,151	97%	54%	<u>11,887</u>	=	<u>12,495</u>	19%	7%
1,860,152	-	1,873,022	97%	55%	<u>12,496</u>	=	<u>13,111</u>	20%	7%
1,873,023	-	1,905,401	98%	55%	<u>13,112</u>	=	<u>13,736</u>	21%	7%
1,905,402	-	1,916,982	98%	56%	<u>13,737</u>	=	<u>14,371</u>	22%	7%
1,916,983	-	1,950,977	99%	56%	<u>14,372</u>	=	<u>15,014</u>	23%	7%
1,950,978	-	1,960,939	99%	57%	<u>15,015</u>	=	<u>15,666</u>	24%	7%
1,960,940	-	1,996,881	100%	57%	<u>15,667</u>	=	<u>16,331</u>	25%	7%
1,996,882	-	2,043,116	100%	58%	<u>16,332</u>	=	<u>17,005</u>	26%	7%
2,043,117	-	2,089,686	100%	59%	<u>17,006</u>	=	<u>17,687</u>	27%	7%
2,089,687	-	2,136,595	100%	60%	<u>17,688</u>	=	<u>18,385</u>	28%	7%
2,136,596	-	2,183,848	100%	61%	<u>18,386</u>	=	<u>19,092</u>	29%	7%
2,183,849	-	2,231,445	100%	62%	<u>19,093</u>	=	<u>19,815</u>	30%	7%
2,231,446	-	2,279,393	100%	63%	<u>19,816</u>	=	<u>20,551</u>	31%	7%
2,279,394	-	2,327,695	100%	64%	<u>20,552</u>	=	<u>21,300</u>	32%	7%
2,327,696	-	2,376,355	100%	65%	<u>21,301</u>	=	<u>22,066</u>	33%	7%
2,376,356	-	2,425,379	100%	66%	<u>22,067</u>	=	<u>22,847</u>	34%	7%
2,425,380	-	2,474,768	100%	67%	<u>22,848</u>	=	<u>23,645</u>	35%	7%
2,474,769	-	2,524,526	100%	68%	<u>23,646</u>	=	<u>24,463</u>	36%	7%
2,524,527	-	2,574,660	100%	69%	<u>24,464</u>	=	<u>25,301</u>	37%	7%
2,574,661	-	2,625,171	100%	70%	<u>25,302</u>	=	<u>26,162</u>	38%	7%
2,625,172	-	2,676,066	100%	71%	<u>26,163</u>	=	<u>27,044</u>	39%	7%
2,676,067	-	2,727,349	100%	72%	<u>27,045</u>	=	<u>27,953</u>	40%	7%
2,727,350	-	2,779,022	100%	73%	<u>27,954</u>	=	<u>28,889</u>	41%	7%
2,779,023	-	2,831,093	100%	74%	<u>28,890</u>	=	<u>29,856</u>	42%	7%
2,831,094	-	2,883,562	100%	75%	<u>29,857</u>	=	<u>30,857</u>	43%	7%
2,883,563	-	2,936,438	100%	76%	<u>30,858</u>	=	<u>31,895</u>	44%	7%
2,936,439	-	2,989,724	100%	77%	<u>31,896</u>	=	<u>32,975</u>	45%	7%
2,989,725	-	3,043,426	100%	78%	<u>32,976</u>	=	<u>34,103</u>	46%	7%
3,043,427	-	3,097,547	100%	79%	<u>34,104</u>	=	<u>35,284</u>	47%	7%
3,097,548	-	3,152,092	100%	80%	<u>35,285</u>	=	<u>36,531</u>	48%	7%
3,152,093	-	3,207,070	100%	81%	<u>36,532</u>	=	<u>37,852</u>	49%	7%
3,207,071	-	3,262,479	100%	82%	<u>37,853</u>	=	<u>39,263</u>	50%	7%
3,262,480	-	3,318,330	100%	83%	<u>39,264</u>	=	<u>40,785</u>	51%	7%
3,318,331	-	3,374,625	100%	84%	<u>40,786</u>	=	<u>42,452</u>	52%	7%
3,374,626	-	3,431,373	100%	85%	<u>42,453</u>	=	<u>44,311</u>	53%	7%
3,431,374	-	& over	100%	86%))	<u>44,312</u>	=	<u>44,500</u>	54%	7%
					<u>44,501</u>	=	<u>46,453</u>	54%	8%
					<u>46,454</u>	=	<u>49,069</u>	55%	8%
					<u>49,070</u>	=	<u>74,262</u>	56%	8%
<u>1</u>	=	<u>8,389</u>	<u>12%</u>	<u>7%</u>	<u>74,263</u>	=	<u>81,852</u>	<u>57%</u>	<u>8%</u>
<u>8,390</u>	=	<u>8,954</u>	<u>13%</u>	<u>7%</u>	<u>81,853</u>	=	<u>116,914</u>	<u>57%</u>	<u>9%</u>
<u>8,955</u>	=	<u>9,528</u>	<u>14%</u>	<u>7%</u>	<u>116,915</u>	=	<u>120,419</u>	<u>57%</u>	<u>10%</u>
<u>9,529</u>	=	<u>10,106</u>	<u>15%</u>	<u>7%</u>	<u>120,420</u>	=	<u>152,192</u>	<u>58%</u>	<u>10%</u>
<u>10,107</u>	=	<u>10,691</u>	<u>16%</u>	<u>7%</u>	<u>152,193</u>	=	<u>166,575</u>	<u>58%</u>	<u>11%</u>
<u>10,692</u>	=	<u>11,285</u>	<u>17%</u>	<u>7%</u>	<u>166,576</u>	=	<u>187,691</u>	<u>59%</u>	<u>11%</u>

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>187,692</u>	=	<u>212,732</u>	<u>59%</u>	<u>12%</u>	<u>1,152,298</u>	=	<u>1,182,014</u>	<u>80%</u>	<u>37%</u>
<u>212,733</u>	=	<u>223,403</u>	<u>60%</u>	<u>12%</u>	<u>1,182,015</u>	=	<u>1,194,249</u>	<u>81%</u>	<u>37%</u>
<u>223,404</u>	=	<u>258,889</u>	<u>60%</u>	<u>13%</u>	<u>1,194,250</u>	=	<u>1,228,172</u>	<u>81%</u>	<u>38%</u>
<u>258,890</u>	=	<u>259,342</u>	<u>61%</u>	<u>13%</u>	<u>1,228,173</u>	=	<u>1,236,485</u>	<u>82%</u>	<u>38%</u>
<u>259,343</u>	=	<u>295,504</u>	<u>61%</u>	<u>14%</u>	<u>1,236,486</u>	=	<u>1,274,329</u>	<u>82%</u>	<u>39%</u>
<u>295,505</u>	=	<u>305,045</u>	<u>61%</u>	<u>15%</u>	<u>1,274,330</u>	=	<u>1,279,007</u>	<u>83%</u>	<u>39%</u>
<u>305,046</u>	=	<u>331,892</u>	<u>62%</u>	<u>15%</u>	<u>1,279,008</u>	=	<u>1,320,486</u>	<u>83%</u>	<u>40%</u>
<u>331,893</u>	=	<u>351,201</u>	<u>62%</u>	<u>16%</u>	<u>1,320,487</u>	=	<u>1,321,817</u>	<u>84%</u>	<u>40%</u>
<u>351,202</u>	=	<u>368,508</u>	<u>63%</u>	<u>16%</u>	<u>1,321,818</u>	=	<u>1,364,916</u>	<u>84%</u>	<u>41%</u>
<u>368,509</u>	=	<u>397,358</u>	<u>63%</u>	<u>17%</u>	<u>1,364,917</u>	=	<u>1,366,639</u>	<u>84%</u>	<u>42%</u>
<u>397,359</u>	=	<u>405,354</u>	<u>64%</u>	<u>17%</u>	<u>1,366,640</u>	=	<u>1,408,310</u>	<u>85%</u>	<u>42%</u>
<u>405,355</u>	=	<u>442,433</u>	<u>64%</u>	<u>18%</u>	<u>1,408,311</u>	=	<u>1,412,797</u>	<u>85%</u>	<u>43%</u>
<u>442,434</u>	=	<u>443,513</u>	<u>64%</u>	<u>19%</u>	<u>1,412,798</u>	=	<u>1,452,004</u>	<u>86%</u>	<u>43%</u>
<u>443,514</u>	=	<u>479,749</u>	<u>65%</u>	<u>19%</u>	<u>1,452,005</u>	=	<u>1,458,955</u>	<u>86%</u>	<u>44%</u>
<u>479,750</u>	=	<u>489,670</u>	<u>65%</u>	<u>20%</u>	<u>1,458,956</u>	=	<u>1,495,996</u>	<u>87%</u>	<u>44%</u>
<u>489,671</u>	=	<u>517,300</u>	<u>66%</u>	<u>20%</u>	<u>1,495,997</u>	=	<u>1,505,112</u>	<u>87%</u>	<u>45%</u>
<u>517,301</u>	=	<u>535,827</u>	<u>66%</u>	<u>21%</u>	<u>1,505,113</u>	=	<u>1,540,293</u>	<u>88%</u>	<u>45%</u>
<u>535,828</u>	=	<u>555,090</u>	<u>67%</u>	<u>21%</u>	<u>1,540,294</u>	=	<u>1,551,267</u>	<u>88%</u>	<u>46%</u>
<u>555,091</u>	=	<u>581,984</u>	<u>67%</u>	<u>22%</u>	<u>1,551,268</u>	=	<u>1,584,896</u>	<u>89%</u>	<u>46%</u>
<u>581,985</u>	=	<u>593,123</u>	<u>68%</u>	<u>22%</u>	<u>1,584,897</u>	=	<u>1,597,423</u>	<u>89%</u>	<u>47%</u>
<u>593,124</u>	=	<u>628,138</u>	<u>68%</u>	<u>23%</u>	<u>1,597,424</u>	=	<u>1,629,810</u>	<u>90%</u>	<u>47%</u>
<u>628,139</u>	=	<u>631,398</u>	<u>69%</u>	<u>23%</u>	<u>1,629,811</u>	=	<u>1,643,581</u>	<u>90%</u>	<u>48%</u>
<u>631,399</u>	=	<u>669,921</u>	<u>69%</u>	<u>24%</u>	<u>1,643,582</u>	=	<u>1,675,036</u>	<u>91%</u>	<u>48%</u>
<u>669,922</u>	=	<u>674,294</u>	<u>69%</u>	<u>25%</u>	<u>1,675,037</u>	=	<u>1,689,735</u>	<u>91%</u>	<u>49%</u>
<u>674,295</u>	=	<u>708,690</u>	<u>70%</u>	<u>25%</u>	<u>1,689,736</u>	=	<u>1,720,578</u>	<u>92%</u>	<u>49%</u>
<u>708,691</u>	=	<u>720,452</u>	<u>70%</u>	<u>26%</u>	<u>1,720,579</u>	=	<u>1,735,894</u>	<u>92%</u>	<u>50%</u>
<u>720,453</u>	=	<u>747,713</u>	<u>71%</u>	<u>26%</u>	<u>1,735,895</u>	=	<u>1,766,442</u>	<u>93%</u>	<u>50%</u>
<u>747,714</u>	=	<u>766,609</u>	<u>71%</u>	<u>27%</u>	<u>1,766,443</u>	=	<u>1,782,049</u>	<u>93%</u>	<u>51%</u>
<u>766,610</u>	=	<u>786,989</u>	<u>72%</u>	<u>27%</u>	<u>1,782,050</u>	=	<u>1,812,628</u>	<u>94%</u>	<u>51%</u>
<u>786,990</u>	=	<u>812,764</u>	<u>72%</u>	<u>28%</u>	<u>1,812,629</u>	=	<u>1,828,205</u>	<u>94%</u>	<u>52%</u>
<u>812,765</u>	=	<u>826,520</u>	<u>73%</u>	<u>28%</u>	<u>1,828,206</u>	=	<u>1,859,141</u>	<u>95%</u>	<u>52%</u>
<u>826,521</u>	=	<u>858,922</u>	<u>73%</u>	<u>29%</u>	<u>1,859,142</u>	=	<u>1,874,360</u>	<u>95%</u>	<u>53%</u>
<u>858,923</u>	=	<u>866,309</u>	<u>74%</u>	<u>29%</u>	<u>1,874,361</u>	=	<u>1,905,983</u>	<u>96%</u>	<u>53%</u>
<u>866,310</u>	=	<u>905,077</u>	<u>74%</u>	<u>30%</u>	<u>1,905,984</u>	=	<u>1,920,518</u>	<u>96%</u>	<u>54%</u>
<u>905,078</u>	=	<u>906,361</u>	<u>75%</u>	<u>30%</u>	<u>1,920,519</u>	=	<u>1,953,159</u>	<u>97%</u>	<u>54%</u>
<u>906,362</u>	=	<u>946,676</u>	<u>75%</u>	<u>31%</u>	<u>1,953,160</u>	=	<u>1,966,673</u>	<u>97%</u>	<u>55%</u>
<u>946,677</u>	=	<u>951,235</u>	<u>75%</u>	<u>32%</u>	<u>1,966,674</u>	=	<u>2,000,671</u>	<u>98%</u>	<u>55%</u>
<u>951,236</u>	=	<u>987,257</u>	<u>76%</u>	<u>32%</u>	<u>2,000,672</u>	=	<u>2,012,831</u>	<u>98%</u>	<u>56%</u>
<u>987,258</u>	=	<u>997,390</u>	<u>76%</u>	<u>33%</u>	<u>2,012,832</u>	=	<u>2,048,526</u>	<u>99%</u>	<u>56%</u>
<u>997,391</u>	=	<u>1,028,107</u>	<u>77%</u>	<u>33%</u>	<u>2,048,527</u>	=	<u>2,058,986</u>	<u>99%</u>	<u>57%</u>
<u>1,028,108</u>	=	<u>1,043,548</u>	<u>77%</u>	<u>34%</u>	<u>2,058,987</u>	=	<u>2,096,725</u>	<u>100%</u>	<u>57%</u>
<u>1,043,549</u>	=	<u>1,069,230</u>	<u>78%</u>	<u>34%</u>	<u>2,096,726</u>	=	<u>2,145,272</u>	<u>100%</u>	<u>58%</u>
<u>1,069,231</u>	=	<u>1,089,704</u>	<u>78%</u>	<u>35%</u>	<u>2,145,273</u>	=	<u>2,194,170</u>	<u>100%</u>	<u>59%</u>
<u>1,089,705</u>	=	<u>1,110,625</u>	<u>79%</u>	<u>35%</u>	<u>2,194,171</u>	=	<u>2,243,425</u>	<u>100%</u>	<u>60%</u>
<u>1,110,626</u>	=	<u>1,135,860</u>	<u>79%</u>	<u>36%</u>	<u>2,243,426</u>	=	<u>2,293,040</u>	<u>100%</u>	<u>61%</u>
<u>1,135,861</u>	=	<u>1,152,297</u>	<u>80%</u>	<u>36%</u>	<u>2,293,041</u>	=	<u>2,343,017</u>	<u>100%</u>	<u>62%</u>

Expected Losses	Primary Credibility	Excess Credibility	((Class	2007	2008	2009	Primary Ratio
<u>2,343,018</u> = <u>2,393,363</u>	<u>100%</u>	<u>63%</u>	0217	1.0020	0.9820	0.8697	0.469
<u>2,393,364</u> = <u>2,444,080</u>	<u>100%</u>	<u>64%</u>	0219	1.1932	1.1688	1.0330	0.468
<u>2,444,081</u> = <u>2,495,173</u>	<u>100%</u>	<u>65%</u>	0301	0.6903	0.6784	0.6015	0.513
<u>2,495,174</u> = <u>2,546,648</u>	<u>100%</u>	<u>66%</u>	0302	1.9604	1.9234	1.7181	0.413
<u>2,546,649</u> = <u>2,598,506</u>	<u>100%</u>	<u>67%</u>	0303	1.6063	1.5767	1.4089	0.416
<u>2,598,507</u> = <u>2,650,752</u>	<u>100%</u>	<u>68%</u>	0306	0.9385	0.9194	0.8149	0.459
<u>2,650,753</u> = <u>2,703,393</u>	<u>100%</u>	<u>69%</u>	0307	0.8598	0.8427	0.7457	0.479
<u>2,703,394</u> = <u>2,756,430</u>	<u>100%</u>	<u>70%</u>	0308	0.5536	0.5455	0.4849	0.526
<u>2,756,431</u> = <u>2,809,869</u>	<u>100%</u>	<u>71%</u>	0403	1.7083	1.6746	1.4812	0.480
<u>2,809,870</u> = <u>2,863,717</u>	<u>100%</u>	<u>72%</u>	0502	1.2560	1.2308	1.0923	0.442
<u>2,863,718</u> = <u>2,917,973</u>	<u>100%</u>	<u>73%</u>	0504	1.6248	1.6052	1.4465	0.439
<u>2,917,974</u> = <u>2,972,648</u>	<u>100%</u>	<u>74%</u>	0507	2.9030	2.8678	2.5882	0.429
<u>2,972,649</u> = <u>3,027,740</u>	<u>100%</u>	<u>75%</u>	0508	1.7556	1.7266	1.5546	0.385
<u>3,027,741</u> = <u>3,083,260</u>	<u>100%</u>	<u>76%</u>	0509	1.7392	1.7153	1.5526	0.386
<u>3,083,261</u> = <u>3,139,210</u>	<u>100%</u>	<u>77%</u>	0510	1.7410	1.7150	1.5374	0.445
<u>3,139,211</u> = <u>3,195,597</u>	<u>100%</u>	<u>78%</u>	0511	1.4871	1.4543	1.2815	0.478
<u>3,195,598</u> = <u>3,252,424</u>	<u>100%</u>	<u>79%</u>	0512	1.4652	1.4434	1.2984	0.418
<u>3,252,425</u> = <u>3,309,697</u>	<u>100%</u>	<u>80%</u>	0513	0.7332	0.7178	0.6336	0.478
<u>3,309,698</u> = <u>3,367,424</u>	<u>100%</u>	<u>81%</u>	0514	1.7923	1.7560	1.5538	0.476
<u>3,367,425</u> = <u>3,425,603</u>	<u>100%</u>	<u>82%</u>	0516	1.5089	1.4847	1.3300	0.433
<u>3,425,604</u> = <u>3,484,247</u>	<u>100%</u>	<u>83%</u>	0517	2.0824	2.0557	1.8548	0.417
<u>3,484,248</u> = <u>3,543,356</u>	<u>100%</u>	<u>84%</u>	0518	1.3371	1.3122	1.1693	0.441
<u>3,543,357</u> = <u>3,602,942</u>	<u>100%</u>	<u>85%</u>	0519	1.7832	1.7562	1.5762	0.428
<u>3,602,943</u> & over	<u>100%</u>	<u>86%</u>	0521	0.5508	0.5414	0.4827	0.455
			0601	0.5848	0.5731	0.5076	0.476
			0602	0.7239	0.7065	0.6200	0.482
			0603	0.9857	0.9700	0.8730	0.397
			0604	1.0815	1.0675	0.9577	0.476
			0606	0.5637	0.5518	0.4845	0.528
			0607	0.6295	0.6161	0.5414	0.517
			0608	0.3432	0.3376	0.3006	0.482
			0701	1.7750	1.7416	1.5681	0.353
			0803	0.4982	0.4890	0.4321	0.525
			0901	1.3371	1.3122	1.1693	0.441
			1002	0.9940	0.9807	0.8815	0.450
			1003	0.8052	0.7934	0.7094	0.477
			1004	0.5560	0.5435	0.4776	0.489
			1005	8.2496	8.0838	7.1655	0.434
			1007	0.3481	0.3407	0.3010	0.473
			1101	0.7627	0.7481	0.6610	0.509
			1102	1.4415	1.4142	1.2576	0.446
			1103	1.2337	1.2143	1.0863	0.443
			1104	0.6363	0.6249	0.5511	0.545
			1105	0.8332	0.8175	0.7261	0.463
			1106	0.3500	0.3466	0.3122	0.509
			1108	0.6380	0.6265	0.5545	0.517

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
(for Indicated) by Risk Classification and Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, ((2011)) 2012**

((Class	2007	2008	2009	Primary Ratio
0101	1.2660	1.2449	1.1135	0.435
0103	1.6890	1.6651	1.4961	0.436
0104	0.8893	0.8753	0.7831	0.445
0105	1.2802	1.2550	1.1076	0.507
0107	1.1648	1.1431	1.0196	0.434
0108	0.8893	0.8753	0.7831	0.445
0112	0.6543	0.6436	0.5749	0.456
0201	2.3864	2.3392	2.0939	0.380
0202	2.9958	2.9506	2.6555	0.401
0210	1.0720	1.0490	0.9279	0.447
0212	1.2626	1.2371	1.0977	0.438
0214	1.3743	1.3470	1.1967	0.443

((Class	2007	2008	2009	Primary- Ratio	((Class	2007	2008	2009	Primary- Ratio
1109	1.4646	1.4407	1.2837	0.472	3309	0.3984	0.3929	0.3521	0.475
1301	0.5946	0.5777	0.4980	0.551	3402	0.5507	0.5417	0.4818	0.497
1303	0.2183	0.2135	0.1870	0.545	3403	0.2102	0.2074	0.1859	0.488
1304	0.0298	0.0293	0.0259	0.511	3404	0.5019	0.4940	0.4392	0.512
1305	0.5257	0.5145	0.4512	0.540	3405	0.3037	0.2989	0.2655	0.533
1401	0.4616	0.4594	0.4203	0.417	3406	0.2441	0.2398	0.2116	0.565
1404	0.9263	0.9066	0.7940	0.550	3407	0.8322	0.8164	0.7242	0.474
1405	0.7038	0.6869	0.5966	0.568	3408	0.2269	0.2209	0.1904	0.590
1407	0.5361	0.5286	0.4710	0.515	3409	0.1752	0.1712	0.1487	0.598
1501	0.6296	0.6148	0.5374	0.527	3410	0.2755	0.2711	0.2405	0.543
1507	0.6079	0.5956	0.5249	0.512	3411	0.5120	0.5025	0.4453	0.491
1701	0.8809	0.8661	0.7713	0.463	3412	0.6022	0.5907	0.5248	0.458
1702	1.7754	1.7476	1.5793	0.363	3414	0.6004	0.5898	0.5237	0.495
1703	0.8710	0.8508	0.7547	0.402	3415	0.8365	0.8291	0.7544	0.420
1704	0.8809	0.8661	0.7713	0.463	3501	1.0816	1.0625	0.9419	0.489
1801	0.4636	0.4596	0.4186	0.417	3503	0.3205	0.3179	0.2863	0.534
1802	0.7568	0.7446	0.6619	0.507	3506	0.8531	0.8343	0.7357	0.477
2002	0.8182	0.8059	0.7187	0.497	3509	0.4253	0.4177	0.3680	0.571
2004	0.8643	0.8485	0.7493	0.526	3510	0.3702	0.3630	0.3194	0.554
2007	0.5531	0.5455	0.4878	0.497	3511	0.6332	0.6253	0.5620	0.467
2008	0.3562	0.3517	0.3158	0.485	3512	0.3954	0.3897	0.3462	0.553
2009	0.4073	0.4008	0.3552	0.538	3513	0.5140	0.5114	0.4667	0.457
2101	0.7347	0.7228	0.6416	0.515	3602	0.1288	0.1265	0.1119	0.532
2102	0.5838	0.5745	0.5097	0.530	3603	0.4816	0.4741	0.4214	0.525
2104	0.3286	0.3257	0.2922	0.567	3604	0.7972	0.7945	0.7277	0.467
2105	0.5695	0.5586	0.4919	0.553	3605	0.5443	0.5330	0.4689	0.514
2106	0.4657	0.4585	0.4071	0.522	3701	0.2765	0.2723	0.2429	0.508
2201	0.2465	0.2432	0.2177	0.496	3702	0.4462	0.4378	0.3861	0.532
2202	0.7794	0.7653	0.6776	0.511	3708	0.5888	0.5770	0.5087	0.516
2203	0.5017	0.4931	0.4355	0.549	3802	0.2106	0.2072	0.1837	0.535
2204	0.2465	0.2432	0.2177	0.496	3808	0.4288	0.4214	0.3751	0.471
2401	0.5266	0.5112	0.4397	0.549	3901	0.1824	0.1798	0.1594	0.576
2903	0.6637	0.6536	0.5813	0.521	3902	0.4746	0.4684	0.4183	0.531
2904	0.7046	0.6945	0.6211	0.489	3903	1.1545	1.1439	1.0314	0.502
2905	0.6760	0.6641	0.5866	0.543	3905	0.1591	0.1571	0.1401	0.564
2906	0.3571	0.3524	0.3152	0.514	3906	0.4890	0.4824	0.4308	0.514
2907	0.5345	0.5252	0.4646	0.531	3909	0.3038	0.2997	0.2673	0.536
2908	1.0963	1.0789	0.9625	0.471	4002	1.2574	1.2317	1.0899	0.473
2909	0.4032	0.3976	0.3546	0.518	4101	0.3558	0.3499	0.3107	0.509
3101	0.7330	0.7198	0.6391	0.491	4103	0.5661	0.5549	0.4868	0.569
3102	0.2765	0.2723	0.2429	0.508	4107	0.1614	0.1589	0.1416	0.504
3103	0.5497	0.5409	0.4820	0.479	4108	0.1952	0.1915	0.1685	0.548
3104	0.6360	0.6251	0.5556	0.494	4109	0.2080	0.2050	0.1832	0.503
3105	0.7595	0.7490	0.6691	0.509	4201	0.7100	0.6922	0.6057	0.488
3303	0.4738	0.4642	0.4077	0.542	4301	0.6812	0.6734	0.6032	0.520
3304	0.5219	0.5146	0.4580	0.545	4302	0.6994	0.6857	0.6036	0.528

((Class	2007	2008	2009	Primary- Ratio	((Class	2007	2008	2009	Primary- Ratio
4304	0.9374	0.9276	0.8340	0.495	5206	0.3974	0.3907	0.3481	0.488
4305	1.2500	1.2172	1.0578	0.522	5207	0.1647	0.1629	0.1458	0.549
4401	0.4302	0.4268	0.3865	0.480	5208	0.8146	0.8008	0.7094	0.520
4402	0.9040	0.8847	0.7749	0.556	5209	0.7119	0.7023	0.6295	0.478
4404	0.5634	0.5556	0.4957	0.512	5300	0.1268	0.1241	0.1088	0.538
4501	0.1983	0.1952	0.1727	0.586	5301	0.0379	0.0372	0.0328	0.549
4502	0.0414	0.0410	0.0366	0.507	5302	0.0169	0.0167	0.0147	0.510
4504	0.1281	0.1262	0.1115	0.595	5305	0.0606	0.0594	0.0522	0.591
4601	0.8045	0.7897	0.6983	0.506	5306	0.0572	0.0563	0.0498	0.573
4801	2.9958	2.9506	2.6555	0.401	5307	0.6315	0.6172	0.5413	0.518
4802	0.3556	0.3519	0.3169	0.490	5308	0.0988	0.0975	0.0867	0.578
4803	0.3132	0.3101	0.2776	0.560	6103	0.0891	0.0879	0.0782	0.589
4804	0.5148	0.5075	0.4514	0.547	6104	0.3954	0.3883	0.3426	0.557
4805	0.3139	0.3093	0.2743	0.554	6105	0.4067	0.3985	0.3517	0.511
4806	0.0646	0.0638	0.0573	0.515	6107	0.1655	0.1642	0.1476	0.570
4808	0.5085	0.5035	0.4536	0.480	6108	0.4995	0.4925	0.4380	0.545
4809	0.3503	0.3467	0.3113	0.531	6109	0.1110	0.1089	0.0965	0.516
4810	0.1471	0.1456	0.1305	0.546	6110	0.6452	0.6348	0.5634	0.519
4811	0.3394	0.3360	0.3011	0.556	6120	0.3033	0.2972	0.2620	0.520
4812	0.4054	0.3992	0.3548	0.545	6121	0.3681	0.3613	0.3196	0.514
4813	0.1772	0.1749	0.1560	0.550	6201	0.3063	0.3025	0.2722	0.469
4900	0.1758	0.1736	0.1570	0.400	6202	0.6426	0.6344	0.5680	0.500
4901	0.0660	0.0649	0.0579	0.481	6203	0.1167	0.1150	0.1017	0.630
4902	0.1223	0.1197	0.1052	0.539	6204	0.1308	0.1289	0.1145	0.560
4903	0.1676	0.1636	0.1419	0.589	6205	0.2761	0.2718	0.2413	0.530
4904	0.0278	0.0273	0.0244	0.546	6206	0.2513	0.2471	0.2190	0.543
4905	0.4054	0.4014	0.3601	0.542	6207	1.2356	1.2318	1.1242	0.499
4906	0.0990	0.0969	0.0847	0.560	6208	0.2649	0.2620	0.2342	0.553
4907	0.0562	0.0555	0.0496	0.534	6209	0.3312	0.3271	0.2921	0.536
4908	0.0874	0.0874	0.0796	0.548	6301	0.1318	0.1291	0.1145	0.460
4909	0.0406	0.0413	0.0388	0.526	6303	0.0774	0.0760	0.0674	0.517
4910	0.4852	0.4781	0.4263	0.496	6304	0.3981	0.3933	0.3511	0.561
4911	0.0613	0.0605	0.0539	0.493	6305	0.1182	0.1162	0.1024	0.577
5001	7.3796	7.2825	6.5926	0.377	6306	0.3022	0.2972	0.2641	0.515
5002	0.6259	0.6118	0.5355	0.534	6308	0.0724	0.0711	0.0627	0.550
5003	2.1501	2.1124	1.8921	0.405	6309	0.2227	0.2192	0.1943	0.544
5004	0.8100	0.8039	0.7318	0.425	6402	0.2977	0.2919	0.2561	0.587
5005	0.6818	0.6708	0.6007	0.421	6403	0.1934	0.1907	0.1694	0.565
5006	1.4000	1.3794	1.2445	0.381	6404	0.2851	0.2810	0.2500	0.542
5101	0.9268	0.9065	0.7957	0.517	6405	0.5396	0.5307	0.4724	0.495
5103	0.7860	0.7746	0.6892	0.540	6406	0.1374	0.1352	0.1196	0.580
5106	0.7860	0.7746	0.6892	0.540	6407	0.2963	0.2916	0.2584	0.549
5108	0.8758	0.8622	0.7651	0.545	6408	0.4450	0.4368	0.3862	0.526
5109	0.5483	0.5375	0.4750	0.500	6409	0.7265	0.7125	0.6307	0.491
5201	0.4114	0.4033	0.3561	0.523	6410	0.3093	0.3044	0.2704	0.538
5204	0.9140	0.9011	0.8092	0.450	6501	0.1672	0.1642	0.1445	0.556

<u>((Class</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Primary</u> <u>Ratio</u>	<u>((Class</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Primary</u> <u>Ratio</u>
6502	0.0328	0.0323	0.0287	0.531	7109	0.1614	0.1586	0.1399	0.578
6503	0.0759	0.0743	0.0655	0.507	7110	0.3391	0.3327	0.2951	0.475
6504	0.4089	0.4034	0.3586	0.581	7111	0.4388	0.4303	0.3823	0.454
6505	0.1196	0.1189	0.1069	0.599	7112	0.7112	0.7009	0.6239	0.538
6506	0.1166	0.1148	0.1019	0.564	7113	0.4206	0.4147	0.3691	0.538
6509	0.3967	0.3916	0.3490	0.547	7114	0.6036	0.5940	0.5241	0.594
6510	0.4628	0.4544	0.4040	0.457	7115	0.5815	0.5737	0.5112	0.544
6511	0.4121	0.4055	0.3594	0.538	7116	0.6495	0.6391	0.5673	0.511
6512	0.1684	0.1656	0.1474	0.494	7117	1.5262	1.5004	1.3282	0.544
6601	0.2080	0.2051	0.1830	0.513	7118	1.5250	1.5040	1.3417	0.515
6602	0.5686	0.5607	0.4999	0.522	7119	1.4744	1.4421	1.2613	0.548
6603	0.3516	0.3455	0.3057	0.531	7120	6.2839	6.1882	5.5174	0.496
6604	0.0862	0.0847	0.0750	0.561	7121	5.8696	5.7810	5.1555	0.495
6605	0.3779	0.3722	0.3293	0.581	7122	0.5496	0.5408	0.4783	0.571
6607	0.1785	0.1754	0.1550	0.533	7200	1.4295	1.3898	1.2011	0.539
6608	0.5059	0.4966	0.4453	0.396	7201	1.6002	1.5632	1.3713	0.494
6620	3.4169	3.3153	2.8477	0.572	7202	0.0309	0.0303	0.0269	0.482
6704	0.1493	0.1467	0.1298	0.544	7203	0.1322	0.1319	0.1201	0.570
6705	0.9066	0.8951	0.7965	0.575	7204	0.0000	0.0000	0.0000	0.500
6706	0.3141	0.3119	0.2826	0.496	7205	0.0000	0.0000	0.0000	0.500
6707	4.9587	4.8517	4.2034	0.664	7301	0.4468	0.4423	0.3992	0.483
6708	8.7875	8.8803	8.3466	0.435	7302	0.9842	0.9743	0.8786	0.482
6709	0.2866	0.2828	0.2517	0.547	7307	0.4810	0.4751	0.4254	0.501
6801	0.6741	0.6569	0.5712	0.546	7308	0.4646	0.4578	0.4054	0.579
6802	0.6279	0.6139	0.5355	0.569	7309	0.2828	0.2795	0.2497	0.556
6803	0.8328	0.8238	0.7529	0.342	7400	1.6002	1.5632	1.3713	0.494))
6804	0.3618	0.3562	0.3164	0.540					
6809	5.0493	4.9940	4.4681	0.546					
6901	0.0191	0.0205	0.0210	0.715	<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>
6902	0.9391	0.9234	0.8290	0.403	<u>0101</u>	<u>1.4826</u>	<u>1.3888</u>	<u>1.1748</u>	<u>0.401</u>
6903	6.6199	6.6055	6.1538	0.311	<u>0103</u>	<u>1.8753</u>	<u>1.7608</u>	<u>1.4952</u>	<u>0.412</u>
6904	0.5390	0.5205	0.4413	0.584	<u>0104</u>	<u>1.0107</u>	<u>0.9440</u>	<u>0.7911</u>	<u>0.441</u>
6905	0.4294	0.4183	0.3618	0.581	<u>0105</u>	<u>1.5004</u>	<u>1.3944</u>	<u>1.1513</u>	<u>0.501</u>
6906	0.1821	0.1874	0.1799	0.662	<u>0107</u>	<u>1.2527</u>	<u>1.1692</u>	<u>0.9803</u>	<u>0.425</u>
6907	1.3578	1.3332	1.1786	0.522	<u>0108</u>	<u>1.0107</u>	<u>0.9440</u>	<u>0.7911</u>	<u>0.441</u>
6908	0.4561	0.4484	0.3978	0.510	<u>0112</u>	<u>0.7166</u>	<u>0.6706</u>	<u>0.5641</u>	<u>0.445</u>
6909	0.1239	0.1222	0.1086	0.550	<u>0201</u>	<u>2.5321</u>	<u>2.3625</u>	<u>1.9890</u>	<u>0.362</u>
7100	0.0328	0.0326	0.0296	0.463	<u>0202</u>	<u>3.3315</u>	<u>3.1181</u>	<u>2.6297</u>	<u>0.398</u>
7101	0.0231	0.0230	0.0210	0.441	<u>0210</u>	<u>1.1460</u>	<u>1.0672</u>	<u>0.8905</u>	<u>0.424</u>
7102	4.4906	4.4901	4.1042	0.545	<u>0212</u>	<u>1.3433</u>	<u>1.2513</u>	<u>1.0445</u>	<u>0.428</u>
7103	0.6907	0.6721	0.5813	0.553	<u>0214</u>	<u>1.5106</u>	<u>1.4092</u>	<u>1.1801</u>	<u>0.421</u>
7104	0.0335	0.0329	0.0289	0.580	<u>0217</u>	<u>1.1440</u>	<u>1.0655</u>	<u>0.8873</u>	<u>0.454</u>
7105	0.0319	0.0312	0.0275	0.574	<u>0219</u>	<u>1.3421</u>	<u>1.2479</u>	<u>1.0346</u>	<u>0.457</u>
7106	0.2617	0.2564	0.2242	0.591	<u>0301</u>	<u>0.7838</u>	<u>0.7323</u>	<u>0.6121</u>	<u>0.497</u>
7107	0.2519	0.2496	0.2244	0.546	<u>0302</u>	<u>2.1939</u>	<u>2.0482</u>	<u>1.7225</u>	<u>0.390</u>
7108	0.2184	0.2156	0.1918	0.552	<u>0303</u>	<u>1.7907</u>	<u>1.6733</u>	<u>1.4096</u>	<u>0.401</u>

<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>	<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>
0306	1.0502	0.9774	0.8135	0.446	1401	0.2360	0.2209	0.1851	0.506
0307	0.9370	0.8717	0.7233	0.470	1404	1.0636	0.9878	0.8141	0.545
0308	0.6123	0.5730	0.4799	0.515	1405	0.8223	0.7602	0.6182	0.560
0403	1.8928	1.7613	1.4617	0.465	1407	0.5842	0.5475	0.4601	0.505
0502	1.3540	1.2617	1.0531	0.423	1501	0.6862	0.6350	0.5199	0.522
0504	1.8017	1.6934	1.4386	0.423	1507	0.6622	0.6171	0.5130	0.493
0507	3.2769	3.0832	2.6273	0.413	1701	0.9241	0.8640	0.7249	0.445
0508	1.8724	1.7511	1.4803	0.371	1702	1.8931	1.7720	1.5028	0.349
0509	1.7950	1.6820	1.4264	0.381	1703	1.0030	0.9316	0.7764	0.383
0510	1.9812	1.8566	1.5686	0.425	1704	0.9241	0.8640	0.7249	0.445
0511	1.6068	1.4941	1.2394	0.460	1801	0.4965	0.4684	0.4017	0.403
0512	1.5554	1.4563	1.2302	0.411	1802	0.8277	0.7737	0.6446	0.492
0513	0.8213	0.7657	0.6391	0.448	2002	0.9140	0.8560	0.7190	0.485
0514	1.9965	1.8553	1.5360	0.472	2004	0.8617	0.8047	0.6708	0.501
0516	1.6942	1.5855	1.3372	0.414	2007	0.6174	0.5789	0.4875	0.489
0517	2.4354	2.2855	1.9393	0.404	2008	0.4031	0.3783	0.3196	0.475
0518	1.4642	1.3675	1.1478	0.421	2009	0.4231	0.3958	0.3310	0.521
0519	1.9071	1.7866	1.5088	0.418	2101	0.8828	0.8239	0.6858	0.516
0521	0.5997	0.5609	0.4721	0.433	2102	0.6770	0.6319	0.5264	0.515
0601	0.6424	0.5983	0.4980	0.458	2104	0.3679	0.3458	0.2912	0.569
0602	0.7642	0.7088	0.5853	0.458	2105	0.6300	0.5873	0.4871	0.538
0603	1.0248	0.9583	0.8083	0.396	2106	0.5432	0.5080	0.4242	0.512
0604	1.2176	1.1424	0.9652	0.471	2201	0.2763	0.2590	0.2183	0.492
0606	0.6308	0.5865	0.4840	0.520	2202	0.8749	0.8150	0.6770	0.506
0607	0.7540	0.7001	0.5778	0.504	2203	0.5438	0.5082	0.4238	0.539
0608	0.3589	0.3358	0.2819	0.461	2204	0.2763	0.2590	0.2183	0.492
0701	1.9379	1.8087	1.5284	0.338	2401	0.5423	0.5004	0.4062	0.526
0803	0.5836	0.5426	0.4485	0.524	2903	0.7377	0.6897	0.5766	0.510
0901	1.4642	1.3675	1.1478	0.421	2904	0.7803	0.7303	0.6132	0.477
1002	1.0471	0.9824	0.8316	0.436	2905	0.7657	0.7146	0.5947	0.529
1003	0.8911	0.8346	0.7024	0.463	2906	0.3983	0.3743	0.3162	0.493
1004	0.6155	0.5716	0.4721	0.476	2907	0.5934	0.5548	0.4635	0.507
1005	9.0730	8.4492	7.0351	0.421	2908	1.2248	1.1474	0.9663	0.457
1007	0.3831	0.3560	0.2951	0.461	2909	0.4459	0.4176	0.3501	0.509
1101	0.8515	0.7931	0.6587	0.498	3101	0.8081	0.7540	0.6290	0.482
1102	1.5977	1.4892	1.2442	0.436	3102	0.2922	0.2735	0.2296	0.495
1103	1.3365	1.2506	1.0535	0.429	3103	0.5909	0.5528	0.4639	0.464
1104	0.7229	0.6733	0.5573	0.535	3104	0.6936	0.6478	0.5415	0.482
1105	0.9161	0.8540	0.7124	0.454	3105	0.8182	0.7669	0.6446	0.498
1106	0.3734	0.3517	0.2988	0.494	3303	0.5060	0.4710	0.3900	0.523
1108	0.7020	0.6545	0.5445	0.509	3304	0.5864	0.5492	0.4607	0.530
1109	1.6292	1.5227	1.2762	0.460	3309	0.4265	0.4000	0.3381	0.452
1301	0.6301	0.5815	0.4724	0.535	3402	0.5903	0.5524	0.4634	0.475
1303	0.2372	0.2205	0.1817	0.535	3403	0.2314	0.2169	0.1831	0.475
1304	0.0320	0.0298	0.0248	0.498	3404	0.5307	0.4968	0.4167	0.496
1305	0.5548	0.5165	0.4285	0.511	3405	0.3126	0.2927	0.2452	0.515

<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>	<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>
<u>3406</u>	<u>0.2927</u>	<u>0.2725</u>	<u>0.2250</u>	<u>0.563</u>	<u>4501</u>	<u>0.2155</u>	<u>0.2015</u>	<u>0.1676</u>	<u>0.571</u>
<u>3407</u>	<u>0.9050</u>	<u>0.8431</u>	<u>0.7020</u>	<u>0.466</u>	<u>4502</u>	<u>0.0476</u>	<u>0.0447</u>	<u>0.0375</u>	<u>0.508</u>
<u>3408</u>	<u>0.2581</u>	<u>0.2381</u>	<u>0.1925</u>	<u>0.579</u>	<u>4504</u>	<u>0.1415</u>	<u>0.1321</u>	<u>0.1093</u>	<u>0.579</u>
<u>3409</u>	<u>0.1877</u>	<u>0.1740</u>	<u>0.1425</u>	<u>0.582</u>	<u>4601</u>	<u>0.8849</u>	<u>0.8254</u>	<u>0.6873</u>	<u>0.490</u>
<u>3410</u>	<u>0.2689</u>	<u>0.2523</u>	<u>0.2124</u>	<u>0.521</u>	<u>4801</u>	<u>3.3315</u>	<u>3.1181</u>	<u>2.6297</u>	<u>0.398</u>
<u>3411</u>	<u>0.5878</u>	<u>0.5486</u>	<u>0.4587</u>	<u>0.467</u>	<u>4802</u>	<u>0.3907</u>	<u>0.3671</u>	<u>0.3101</u>	<u>0.490</u>
<u>3412</u>	<u>0.6547</u>	<u>0.6115</u>	<u>0.5130</u>	<u>0.435</u>	<u>4803</u>	<u>0.3501</u>	<u>0.3289</u>	<u>0.2771</u>	<u>0.562</u>
<u>3414</u>	<u>0.6592</u>	<u>0.6176</u>	<u>0.5201</u>	<u>0.464</u>	<u>4804</u>	<u>0.5561</u>	<u>0.5214</u>	<u>0.4380</u>	<u>0.534</u>
<u>3415</u>	<u>0.9266</u>	<u>0.8736</u>	<u>0.7475</u>	<u>0.406</u>	<u>4805</u>	<u>0.3493</u>	<u>0.3267</u>	<u>0.2727</u>	<u>0.539</u>
<u>3501</u>	<u>1.1780</u>	<u>1.0995</u>	<u>0.9174</u>	<u>0.475</u>	<u>4806</u>	<u>0.0713</u>	<u>0.0670</u>	<u>0.0568</u>	<u>0.507</u>
<u>3503</u>	<u>0.3535</u>	<u>0.3332</u>	<u>0.2829</u>	<u>0.522</u>	<u>4808</u>	<u>0.5378</u>	<u>0.5056</u>	<u>0.4281</u>	<u>0.477</u>
<u>3506</u>	<u>0.9578</u>	<u>0.8875</u>	<u>0.7294</u>	<u>0.480</u>	<u>4809</u>	<u>0.3631</u>	<u>0.3416</u>	<u>0.2894</u>	<u>0.513</u>
<u>3509</u>	<u>0.4565</u>	<u>0.4258</u>	<u>0.3539</u>	<u>0.556</u>	<u>4810</u>	<u>0.1617</u>	<u>0.1523</u>	<u>0.1288</u>	<u>0.536</u>
<u>3510</u>	<u>0.3843</u>	<u>0.3587</u>	<u>0.2983</u>	<u>0.526</u>	<u>4811</u>	<u>0.3954</u>	<u>0.3715</u>	<u>0.3130</u>	<u>0.553</u>
<u>3511</u>	<u>0.6717</u>	<u>0.6314</u>	<u>0.5349</u>	<u>0.451</u>	<u>4812</u>	<u>0.4317</u>	<u>0.4043</u>	<u>0.3389</u>	<u>0.527</u>
<u>3512</u>	<u>0.4310</u>	<u>0.4035</u>	<u>0.3373</u>	<u>0.539</u>	<u>4813</u>	<u>0.1981</u>	<u>0.1859</u>	<u>0.1564</u>	<u>0.541</u>
<u>3513</u>	<u>0.5899</u>	<u>0.5579</u>	<u>0.4787</u>	<u>0.459</u>	<u>4900</u>	<u>0.1852</u>	<u>0.1738</u>	<u>0.1476</u>	<u>0.391</u>
<u>3602</u>	<u>0.1335</u>	<u>0.1247</u>	<u>0.1038</u>	<u>0.520</u>	<u>4901</u>	<u>0.0706</u>	<u>0.0659</u>	<u>0.0550</u>	<u>0.472</u>
<u>3603</u>	<u>0.5332</u>	<u>0.4988</u>	<u>0.4170</u>	<u>0.513</u>	<u>4902</u>	<u>0.1376</u>	<u>0.1278</u>	<u>0.1053</u>	<u>0.532</u>
<u>3604</u>	<u>0.8594</u>	<u>0.8154</u>	<u>0.7042</u>	<u>0.455</u>	<u>4903</u>	<u>0.1781</u>	<u>0.1653</u>	<u>0.1356</u>	<u>0.572</u>
<u>3605</u>	<u>0.5996</u>	<u>0.5575</u>	<u>0.4610</u>	<u>0.502</u>	<u>4904</u>	<u>0.0292</u>	<u>0.0274</u>	<u>0.0228</u>	<u>0.535</u>
<u>3701</u>	<u>0.2922</u>	<u>0.2735</u>	<u>0.2296</u>	<u>0.495</u>	<u>4905</u>	<u>0.4492</u>	<u>0.4221</u>	<u>0.3560</u>	<u>0.539</u>
<u>3702</u>	<u>0.5031</u>	<u>0.4679</u>	<u>0.3864</u>	<u>0.525</u>	<u>4906</u>	<u>0.1102</u>	<u>0.1022</u>	<u>0.0838</u>	<u>0.553</u>
<u>3708</u>	<u>0.6586</u>	<u>0.6126</u>	<u>0.5074</u>	<u>0.506</u>	<u>4907</u>	<u>0.0627</u>	<u>0.0589</u>	<u>0.0493</u>	<u>0.524</u>
<u>3802</u>	<u>0.2341</u>	<u>0.2188</u>	<u>0.1825</u>	<u>0.526</u>	<u>4908</u>	<u>0.1018</u>	<u>0.0965</u>	<u>0.0817</u>	<u>0.541</u>
<u>3808</u>	<u>0.4555</u>	<u>0.4258</u>	<u>0.3571</u>	<u>0.450</u>	<u>4909</u>	<u>0.0449</u>	<u>0.0433</u>	<u>0.0378</u>	<u>0.518</u>
<u>3901</u>	<u>0.1889</u>	<u>0.1772</u>	<u>0.1488</u>	<u>0.558</u>	<u>4910</u>	<u>0.5386</u>	<u>0.5035</u>	<u>0.4216</u>	<u>0.492</u>
<u>3902</u>	<u>0.5226</u>	<u>0.4903</u>	<u>0.4122</u>	<u>0.523</u>	<u>4911</u>	<u>0.0680</u>	<u>0.0638</u>	<u>0.0536</u>	<u>0.474</u>
<u>3903</u>	<u>1.2650</u>	<u>1.1915</u>	<u>1.0129</u>	<u>0.490</u>	<u>5001</u>	<u>8.7558</u>	<u>8.2268</u>	<u>7.0179</u>	<u>0.358</u>
<u>3905</u>	<u>0.1713</u>	<u>0.1607</u>	<u>0.1349</u>	<u>0.558</u>	<u>5002</u>	<u>0.6894</u>	<u>0.6398</u>	<u>0.5262</u>	<u>0.521</u>
<u>3906</u>	<u>0.5172</u>	<u>0.4859</u>	<u>0.4109</u>	<u>0.493</u>	<u>5003</u>	<u>2.3130</u>	<u>2.1551</u>	<u>1.8033</u>	<u>0.403</u>
<u>3909</u>	<u>0.3676</u>	<u>0.3439</u>	<u>0.2874</u>	<u>0.529</u>	<u>5004</u>	<u>0.8764</u>	<u>0.8264</u>	<u>0.7066</u>	<u>0.418</u>
<u>4002</u>	<u>1.3834</u>	<u>1.2876</u>	<u>1.0708</u>	<u>0.459</u>	<u>5005</u>	<u>0.7934</u>	<u>0.7424</u>	<u>0.6256</u>	<u>0.409</u>
<u>4101</u>	<u>0.3925</u>	<u>0.3665</u>	<u>0.3060</u>	<u>0.496</u>	<u>5006</u>	<u>1.5351</u>	<u>1.4385</u>	<u>1.2194</u>	<u>0.369</u>
<u>4103</u>	<u>0.6214</u>	<u>0.5786</u>	<u>0.4785</u>	<u>0.548</u>	<u>5101</u>	<u>1.0280</u>	<u>0.9544</u>	<u>0.7870</u>	<u>0.495</u>
<u>4107</u>	<u>0.1813</u>	<u>0.1693</u>	<u>0.1415</u>	<u>0.497</u>	<u>5103</u>	<u>0.9240</u>	<u>0.8652</u>	<u>0.7247</u>	<u>0.535</u>
<u>4108</u>	<u>0.2352</u>	<u>0.2186</u>	<u>0.1805</u>	<u>0.548</u>	<u>5106</u>	<u>0.9240</u>	<u>0.8652</u>	<u>0.7247</u>	<u>0.535</u>
<u>4109</u>	<u>0.2293</u>	<u>0.2148</u>	<u>0.1805</u>	<u>0.493</u>	<u>5108</u>	<u>0.9622</u>	<u>0.8997</u>	<u>0.7512</u>	<u>0.529</u>
<u>4201</u>	<u>0.7725</u>	<u>0.7158</u>	<u>0.5900</u>	<u>0.473</u>	<u>5109</u>	<u>0.6294</u>	<u>0.5841</u>	<u>0.4810</u>	<u>0.501</u>
<u>4301</u>	<u>0.7783</u>	<u>0.7292</u>	<u>0.6120</u>	<u>0.510</u>	<u>5201</u>	<u>0.4371</u>	<u>0.4072</u>	<u>0.3382</u>	<u>0.509</u>
<u>4302</u>	<u>0.8029</u>	<u>0.7466</u>	<u>0.6164</u>	<u>0.524</u>	<u>5204</u>	<u>1.0571</u>	<u>0.9897</u>	<u>0.8344</u>	<u>0.444</u>
<u>4304</u>	<u>1.0552</u>	<u>0.9924</u>	<u>0.8408</u>	<u>0.489</u>	<u>5206</u>	<u>0.4108</u>	<u>0.3850</u>	<u>0.3247</u>	<u>0.457</u>
<u>4305</u>	<u>1.3363</u>	<u>1.2376</u>	<u>1.0157</u>	<u>0.503</u>	<u>5207</u>	<u>0.1728</u>	<u>0.1627</u>	<u>0.1375</u>	<u>0.531</u>
<u>4401</u>	<u>0.4685</u>	<u>0.4423</u>	<u>0.3774</u>	<u>0.468</u>	<u>5208</u>	<u>0.8598</u>	<u>0.8037</u>	<u>0.6709</u>	<u>0.504</u>
<u>4402</u>	<u>0.9698</u>	<u>0.9008</u>	<u>0.7432</u>	<u>0.541</u>	<u>5209</u>	<u>0.7691</u>	<u>0.7206</u>	<u>0.6064</u>	<u>0.465</u>
<u>4404</u>	<u>0.5921</u>	<u>0.5565</u>	<u>0.4704</u>	<u>0.491</u>	<u>5300</u>	<u>0.1433</u>	<u>0.1330</u>	<u>0.1092</u>	<u>0.533</u>

<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>	<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary</u> <u>Ratio</u>
<u>5301</u>	<u>0.0439</u>	<u>0.0408</u>	<u>0.0336</u>	<u>0.546</u>	<u>6509</u>	<u>0.4218</u>	<u>0.3951</u>	<u>0.3308</u>	<u>0.546</u>
<u>5302</u>	<u>0.0170</u>	<u>0.0159</u>	<u>0.0133</u>	<u>0.483</u>	<u>6510</u>	<u>0.5071</u>	<u>0.4729</u>	<u>0.3948</u>	<u>0.451</u>
<u>5305</u>	<u>0.0667</u>	<u>0.0620</u>	<u>0.0511</u>	<u>0.577</u>	<u>6511</u>	<u>0.4471</u>	<u>0.4179</u>	<u>0.3489</u>	<u>0.530</u>
<u>5306</u>	<u>0.0594</u>	<u>0.0556</u>	<u>0.0464</u>	<u>0.558</u>	<u>6512</u>	<u>0.1726</u>	<u>0.1614</u>	<u>0.1351</u>	<u>0.484</u>
<u>5307</u>	<u>0.7307</u>	<u>0.6783</u>	<u>0.5596</u>	<u>0.500</u>	<u>6601</u>	<u>0.2360</u>	<u>0.2209</u>	<u>0.1851</u>	<u>0.506</u>
<u>5308</u>	<u>0.1190</u>	<u>0.1109</u>	<u>0.0918</u>	<u>0.575</u>	<u>6602</u>	<u>0.6014</u>	<u>0.5633</u>	<u>0.4730</u>	<u>0.518</u>
<u>6103</u>	<u>0.0961</u>	<u>0.0901</u>	<u>0.0753</u>	<u>0.580</u>	<u>6603</u>	<u>0.3675</u>	<u>0.3440</u>	<u>0.2884</u>	<u>0.510</u>
<u>6104</u>	<u>0.4384</u>	<u>0.4091</u>	<u>0.3404</u>	<u>0.537</u>	<u>6604</u>	<u>0.0938</u>	<u>0.0876</u>	<u>0.0731</u>	<u>0.547</u>
<u>6105</u>	<u>0.4400</u>	<u>0.4097</u>	<u>0.3405</u>	<u>0.492</u>	<u>6605</u>	<u>0.4464</u>	<u>0.4160</u>	<u>0.3432</u>	<u>0.573</u>
<u>6107</u>	<u>0.1722</u>	<u>0.1626</u>	<u>0.1381</u>	<u>0.551</u>	<u>6607</u>	<u>0.1907</u>	<u>0.1781</u>	<u>0.1485</u>	<u>0.523</u>
<u>6108</u>	<u>0.5397</u>	<u>0.5051</u>	<u>0.4224</u>	<u>0.537</u>	<u>6608</u>	<u>0.5779</u>	<u>0.5382</u>	<u>0.4508</u>	<u>0.389</u>
<u>6109</u>	<u>0.1203</u>	<u>0.1123</u>	<u>0.0933</u>	<u>0.511</u>	<u>6620</u>	<u>3.7935</u>	<u>3.4911</u>	<u>2.8173</u>	<u>0.558</u>
<u>6110</u>	<u>0.6804</u>	<u>0.6355</u>	<u>0.5306</u>	<u>0.508</u>	<u>6704</u>	<u>0.1552</u>	<u>0.1450</u>	<u>0.1210</u>	<u>0.524</u>
<u>6120</u>	<u>0.3604</u>	<u>0.3339</u>	<u>0.2735</u>	<u>0.527</u>	<u>6705</u>	<u>1.0604</u>	<u>0.9908</u>	<u>0.8245</u>	<u>0.571</u>
<u>6121</u>	<u>0.4066</u>	<u>0.3789</u>	<u>0.3152</u>	<u>0.501</u>	<u>6706</u>	<u>0.3416</u>	<u>0.3226</u>	<u>0.2762</u>	<u>0.483</u>
<u>6201</u>	<u>0.3494</u>	<u>0.3274</u>	<u>0.2758</u>	<u>0.466</u>	<u>6707</u>	<u>5.7762</u>	<u>5.3620</u>	<u>4.3741</u>	<u>0.650</u>
<u>6202</u>	<u>0.7450</u>	<u>0.6971</u>	<u>0.5833</u>	<u>0.498</u>	<u>6708</u>	<u>9.5681</u>	<u>9.2172</u>	<u>8.1794</u>	<u>0.426</u>
<u>6203</u>	<u>0.1288</u>	<u>0.1203</u>	<u>0.0999</u>	<u>0.617</u>	<u>6709</u>	<u>0.3217</u>	<u>0.3009</u>	<u>0.2510</u>	<u>0.536</u>
<u>6204</u>	<u>0.1481</u>	<u>0.1384</u>	<u>0.1156</u>	<u>0.551</u>	<u>6801</u>	<u>0.7538</u>	<u>0.6970</u>	<u>0.5686</u>	<u>0.530</u>
<u>6205</u>	<u>0.2934</u>	<u>0.2748</u>	<u>0.2305</u>	<u>0.517</u>	<u>6802</u>	<u>0.6936</u>	<u>0.6438</u>	<u>0.5287</u>	<u>0.557</u>
<u>6206</u>	<u>0.2701</u>	<u>0.2525</u>	<u>0.2108</u>	<u>0.530</u>	<u>6803</u>	<u>0.8947</u>	<u>0.8423</u>	<u>0.7236</u>	<u>0.325</u>
<u>6207</u>	<u>1.4277</u>	<u>1.3514</u>	<u>1.1599</u>	<u>0.490</u>	<u>6804</u>	<u>0.4083</u>	<u>0.3820</u>	<u>0.3193</u>	<u>0.523</u>
<u>6208</u>	<u>0.2968</u>	<u>0.2790</u>	<u>0.2352</u>	<u>0.546</u>	<u>6809</u>	<u>5.5474</u>	<u>5.2119</u>	<u>4.3748</u>	<u>0.536</u>
<u>6209</u>	<u>0.3617</u>	<u>0.3393</u>	<u>0.2854</u>	<u>0.523</u>	<u>6901</u>	<u>0.0227</u>	<u>0.0234</u>	<u>0.0222</u>	<u>0.730</u>
<u>6301</u>	<u>0.1452</u>	<u>0.1350</u>	<u>0.1119</u>	<u>0.463</u>	<u>6902</u>	<u>1.0507</u>	<u>0.9820</u>	<u>0.8277</u>	<u>0.400</u>
<u>6303</u>	<u>0.0863</u>	<u>0.0805</u>	<u>0.0670</u>	<u>0.509</u>	<u>6903</u>	<u>7.2850</u>	<u>6.9225</u>	<u>6.0630</u>	<u>0.301</u>
<u>6304</u>	<u>0.4117</u>	<u>0.3867</u>	<u>0.3259</u>	<u>0.549</u>	<u>6904</u>	<u>0.5914</u>	<u>0.5423</u>	<u>0.4333</u>	<u>0.560</u>
<u>6305</u>	<u>0.1266</u>	<u>0.1182</u>	<u>0.0981</u>	<u>0.563</u>	<u>6905</u>	<u>0.4808</u>	<u>0.4443</u>	<u>0.3614</u>	<u>0.564</u>
<u>6306</u>	<u>0.3340</u>	<u>0.3122</u>	<u>0.2607</u>	<u>0.501</u>	<u>6906</u>	<u>0.2013</u>	<u>0.1973</u>	<u>0.1802</u>	<u>0.651</u>
<u>6308</u>	<u>0.0801</u>	<u>0.0745</u>	<u>0.0617</u>	<u>0.535</u>	<u>6907</u>	<u>1.4762</u>	<u>1.3750</u>	<u>1.1412</u>	<u>0.517</u>
<u>6309</u>	<u>0.2434</u>	<u>0.2279</u>	<u>0.1907</u>	<u>0.520</u>	<u>6908</u>	<u>0.4828</u>	<u>0.4514</u>	<u>0.3775</u>	<u>0.491</u>
<u>6402</u>	<u>0.3269</u>	<u>0.3046</u>	<u>0.2519</u>	<u>0.573</u>	<u>6909</u>	<u>0.1323</u>	<u>0.1239</u>	<u>0.1038</u>	<u>0.539</u>
<u>6403</u>	<u>0.1938</u>	<u>0.1819</u>	<u>0.1531</u>	<u>0.542</u>	<u>7100</u>	<u>0.0361</u>	<u>0.0342</u>	<u>0.0293</u>	<u>0.451</u>
<u>6404</u>	<u>0.3064</u>	<u>0.2871</u>	<u>0.2408</u>	<u>0.533</u>	<u>7101</u>	<u>0.0257</u>	<u>0.0242</u>	<u>0.0207</u>	<u>0.433</u>
<u>6405</u>	<u>0.6136</u>	<u>0.5729</u>	<u>0.4785</u>	<u>0.484</u>	<u>7102</u>	<u>4.9017</u>	<u>4.6618</u>	<u>4.0280</u>	<u>0.535</u>
<u>6406</u>	<u>0.1476</u>	<u>0.1380</u>	<u>0.1149</u>	<u>0.568</u>	<u>7103</u>	<u>0.7672</u>	<u>0.7089</u>	<u>0.5780</u>	<u>0.534</u>
<u>6407</u>	<u>0.3167</u>	<u>0.2959</u>	<u>0.2468</u>	<u>0.542</u>	<u>7104</u>	<u>0.0374</u>	<u>0.0348</u>	<u>0.0288</u>	<u>0.566</u>
<u>6408</u>	<u>0.4992</u>	<u>0.4650</u>	<u>0.3858</u>	<u>0.514</u>	<u>7105</u>	<u>0.0333</u>	<u>0.0310</u>	<u>0.0257</u>	<u>0.556</u>
<u>6409</u>	<u>0.8154</u>	<u>0.7600</u>	<u>0.6333</u>	<u>0.475</u>	<u>7106</u>	<u>0.2931</u>	<u>0.2725</u>	<u>0.2247</u>	<u>0.580</u>
<u>6410</u>	<u>0.3443</u>	<u>0.3217</u>	<u>0.2682</u>	<u>0.525</u>	<u>7107</u>	<u>0.2788</u>	<u>0.2624</u>	<u>0.2221</u>	<u>0.537</u>
<u>6501</u>	<u>0.1839</u>	<u>0.1713</u>	<u>0.1419</u>	<u>0.549</u>	<u>7108</u>	<u>0.2481</u>	<u>0.2324</u>	<u>0.1948</u>	<u>0.550</u>
<u>6502</u>	<u>0.0356</u>	<u>0.0333</u>	<u>0.0278</u>	<u>0.522</u>	<u>7109</u>	<u>0.1783</u>	<u>0.1663</u>	<u>0.1380</u>	<u>0.565</u>
<u>6503</u>	<u>0.0811</u>	<u>0.0753</u>	<u>0.0624</u>	<u>0.489</u>	<u>7110</u>	<u>0.3655</u>	<u>0.3410</u>	<u>0.2852</u>	<u>0.458</u>
<u>6504</u>	<u>0.4365</u>	<u>0.4097</u>	<u>0.3439</u>	<u>0.566</u>	<u>7111</u>	<u>0.5063</u>	<u>0.4713</u>	<u>0.3923</u>	<u>0.449</u>
<u>6505</u>	<u>0.1390</u>	<u>0.1310</u>	<u>0.1102</u>	<u>0.594</u>	<u>7112</u>	<u>0.7921</u>	<u>0.7416</u>	<u>0.6216</u>	<u>0.529</u>
<u>6506</u>	<u>0.1344</u>	<u>0.1256</u>	<u>0.1046</u>	<u>0.557</u>	<u>7113</u>	<u>0.4615</u>	<u>0.4323</u>	<u>0.3625</u>	<u>0.526</u>

<u>Class</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Primary Ratio</u>	<u>((Expected Loss Range</u>	<u>Maximum Experience Modification</u>
7114	0.6940	0.6490	0.5412	0.581	0 - 7,234	0.90
7115	0.6382	0.5980	0.5023	0.538	7,235 - 8,834	0.89
7116	0.7144	0.6673	0.5571	0.499	8,835 - 9,786	0.88
7117	1.4892	1.3920	1.1637	0.516	9,787 - 10,667	0.87
7118	1.6677	1.5634	1.3153	0.499	10,668 - 11,596	0.86
7119	1.6091	1.4952	1.2338	0.533	11,597 - 12,569	0.85
7120	6.9042	6.4609	5.4219	0.483	12,570 - 13,427	0.84
7121	6.4598	6.0453	5.0733	0.483	13,428 - 14,296	0.83
7122	0.5838	0.5451	0.4538	0.554	14,297 - 15,201	0.82
7200	1.6572	1.5263	1.2353	0.528	15,202 - 16,143	0.81
7201	1.9112	1.7694	1.4522	0.494	16,144 - 17,122	0.80
7202	0.0323	0.0302	0.0253	0.452	17,123 - 18,138	0.79
7203	0.1448	0.1376	0.1181	0.562	18,139 - 19,194	0.78
7204	0.0000	0.0000	0.0000	0.500	19,195 - 20,286	0.77
7205	0.0000	0.0000	0.0000	0.500	20,287 - 21,418	0.76
7301	0.4679	0.4402	0.3737	0.471	21,419 - 22,587	0.75
7302	1.0482	0.9870	0.8391	0.474	22,588 - 23,796	0.74
7307	0.5139	0.4829	0.4083	0.485	23,797 - 25,044	0.73
7308	0.4740	0.4435	0.3704	0.556	25,045 - 26,334	0.72
7309	0.3197	0.2999	0.2521	0.551	26,335 - 27,662	0.71
7400	1.9112	1.7694	1.4522	0.494	27,663 - 29,032	0.70
					29,033 - 30,442	0.69
					30,443 - 31,891	0.68
					31,892 - 33,384	0.67
					33,385 - 34,914	0.66
					34,915 - 36,489	0.65
					36,490 - 38,942	0.64
					38,943 - 42,278	0.63
					42,279 - 46,134	0.62
					46,135 - 53,632	0.61
					53,633 & Over	0.60))

Expected Loss Rates in Dollars Per Sq. Ft. of Wallboard Installed

<u>Class</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>Primary Ratio</u>	<u>Expected Loss Range</u>	<u>Maximum Experience Modification</u>
0540	0.0188	0.0185	0.0167	0.446	0 = 7,596	0.90
0541	0.0109	0.0107	0.0095	0.426	7,597 = 9,276	0.89
0550	0.0218	0.0214	0.0193	0.387	9,277 = 10,275	0.88
0551	0.0142	0.0138	0.0125	0.394))	10,276 = 11,200	0.87
					11,201 = 12,176	0.86
					12,177 = 13,198	0.85
					13,199 = 14,098	0.84
					14,099 = 15,011	0.83
					15,012 = 15,961	0.82
					15,962 = 16,950	0.81
					16,951 = 17,978	0.80
					17,979 = 19,045	0.79

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-890 Table IV.

Maximum experience modifications for firms with no compensable accidents: Effective ((1/1/2011)) January 1, 2012

<u>Expected Loss Range</u>		<u>Maximum Experience Modification</u>		<u>((Base Rates Effective January 1, 2011</u>	
			<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>
<u>19.046</u>	=	<u>20.154</u>			
<u>20.155</u>	=	<u>21.300</u>			
<u>21.301</u>	=	<u>22.489</u>	0306	1.5059	0.5633
<u>22.490</u>	=	<u>23.716</u>	0307	1.3203	0.5543
<u>23.717</u>	=	<u>24.986</u>	0308	0.6746	0.4431
<u>24.987</u>	=	<u>26.296</u>	0403	2.5384	1.1181
<u>26.297</u>	=	<u>27.651</u>	0502	2.0327	0.7345
<u>27.652</u>	=	<u>29.045</u>	0504	2.2999	1.1556
<u>29.046</u>	=	<u>30.484</u>	0507	4.2765	2.0017
<u>30.485</u>	=	<u>31.964</u>	0508	3.1091	0.9358
<u>31.965</u>	=	<u>33.486</u>	0509	2.9627	1.0077
<u>33.487</u>	=	<u>35.053</u>	0510	2.5862	1.1644
<u>35.054</u>	=	<u>36.660</u>	0511	2.3325	0.9043
<u>36.661</u>	=	<u>38.314</u>	0512	2.3533	0.9083
<u>38.315</u>	=	<u>40.889</u>	0513	1.1211	0.4589
<u>40.890</u>	=	<u>44.392</u>	0514	2.7704	1.1316
<u>44.393</u>	=	<u>48.441</u>	0516	2.3543	0.9553
<u>48.442</u>	=	<u>56.314</u>	0517	3.1373	1.3718
<u>56.315</u>	&	<u>Over</u>	0518	2.1988	0.7991
			0519	2.7689	1.1423
			0521	0.8247	0.3570
			0601	0.9101	0.3730
			0602	1.1677	0.4150
			0603	1.6954	0.5583
			0604	1.4682	0.8126
			0606	0.7735	0.4001
			0607	0.8759	0.4264
			0608	0.4980	0.2435
			0701	3.4669	0.7652
			0803	0.6659	0.3675
			0901	2.1988	0.7991
			1002	1.4477	0.6931
			1003	1.1163	0.5836
			1004	0.8347	0.3468
			1005	13.1041	4.8573
			1007	0.5492	0.2097
			1101	1.0534	0.5356
			1102	2.2602	0.8662
			1103	1.8269	0.8111
			1104	0.7945	0.4966
			1105	1.2720	0.5289
			1106	0.4243	0.3002
			1108	0.8776	0.4661
			1109	2.0698	1.0129
			1301	0.8501	0.3735
			1303	0.2959	0.1575

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

	<u>((Base Rates Effective January 1, 2011</u>	
<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>
0101	1.9913	0.7878
0103	2.5351	1.1235
0104	1.3529	0.5826
0105	1.8059	0.8927
0107	1.9321	0.6800
0108	1.3529	0.5826
0112	0.9852	0.4337
0201	4.4299	1.1360
0202	4.9314	1.8028
0210	1.7341	0.6051
0212	2.0374	0.7248
0214	2.2476	0.7960
0217	1.5258	0.6260
0219	1.8060	0.7492
0301	0.9229	0.5091
0302	3.3552	1.0702
0303	2.7012	0.8922

((Base Rates Effective January 1, 2011			((Base Rates Effective January 1, 2011		
Class	Accident- Fund	Medical Aid Fund	Class	Accident- Fund	Medical Aid Fund
1304	0.0414	0.0214	3402	0.7696	0.4041
1305	0.6984	0.3746	3403	0.2959	0.1562
1401	0.6005	0.3679	3404	0.6782	0.3839
1404	1.1704	0.6736	3405	0.3876	0.2454
1405	0.9214	0.5132	3406	0.3000	0.2015
1407	0.6510	0.4292	3407	1.2442	0.5406
1501	0.8992	0.4120	3408	0.2879	0.1640
1507	0.8529	0.4210	3409	0.2046	0.1350
1701	1.2719	0.5943	3410	0.3235	0.2241
1702	3.2097	0.9132	3411	0.7420	0.3484
1703	1.6080	0.3934	3412	0.9478	0.3729
1704	1.2719	0.5943	3414	0.8479	0.4229
1801	0.6892	0.3369	3415	1.2348	0.6070
1802	1.1057	0.5906	3501	1.4885	0.7634
2002	1.0874	0.6184	3503	0.3506	0.2955
2004	1.1303	0.6476	3506	1.3806	0.5172
2007	0.7360	0.4253	3509	0.4988	0.3438
2008	0.4834	0.2730	3510	0.4737	0.2871
2009	0.5040	0.3296	3511	0.8914	0.4757
2101	0.9474	0.5639	3512	0.4860	0.3371
2102	0.7349	0.4602	3513	0.6427	0.4365
2104	0.3455	0.3159	3602	0.1701	0.0990
2105	0.7380	0.4406	3603	0.6227	0.3812
2106	0.6018	0.3700	3604	1.0074	0.7053
2201	0.3165	0.1895	3605	0.7706	0.3759
2202	1.0588	0.5617	3701	0.3828	0.2103
2203	0.6146	0.4012	3702	0.5979	0.3340
2204	0.3165	0.1895	3708	0.8247	0.4088
2401	0.7634	0.3258	3802	0.2690	0.1670
2903	0.8534	0.5232	3808	0.6450	0.2869
2904	0.9650	0.5256	3901	0.2027	0.1609
2905	0.8463	0.5305	3902	0.5794	0.3970
2906	0.4727	0.2897	3903	1.3755	0.9846
2907	0.7022	0.4117	3905	0.1781	0.1443
2908	1.5599	0.7707	3906	0.6036	0.3939
2909	0.5186	0.3257	3909	0.3757	0.2539
3101	1.0666	0.5099	4002	1.9297	0.7811
3102	0.3828	0.2103	4101	0.4850	0.2625
3103	0.7510	0.3911	4103	0.6908	0.4482
3104	0.9005	0.4504	4107	0.2216	0.1219
3105	1.0063	0.5977	4108	0.2486	0.1483
3303	0.6155	0.3500	4109	0.2790	0.1610
3304	0.6206	0.4369	4201	1.1368	0.4010
3309	0.5616	0.2883	4301	0.8042	0.5812

((Base Rates Effective
January 1, 2011

((Base Rates Effective
January 1, 2011

Class	((Base Rates Effective January 1, 2011		Class	((Base Rates Effective January 1, 2011	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
4302	0.9412	0.5135	5201	0.5756	0.2947
4304	1.1506	0.7729	5204	1.3306	0.6267
4305	1.8475	0.7679	5206	0.5788	0.2774
4401	0.5530	0.3660	5207	0.1868	0.1474
4402	1.1376	0.6595	5208	1.0667	0.6243
4404	0.7257	0.4496	5209	0.9967	0.5315
4501	0.2356	0.1804	5300	0.1750	0.0907
4502	0.0530	0.0342	5301	0.0500	0.0293
4504	0.1489	0.1163	5302	0.0232	0.0126
4601	1.0725	0.5809	5305	0.0721	0.0506
4802	0.4396	0.2937	5306	0.0682	0.0486
4803	0.3251	0.2871	5307	0.9034	0.4130
4804	0.6254	0.4329	5308	0.1178	0.0890
4805	0.3669	0.2637	6103	0.0970	0.0832
4806	0.0782	0.0538	6104	0.4796	0.3179
4808	0.6377	0.4155	6105	0.5779	0.2782
4809	0.4028	0.3064	6107	0.1881	0.1615
4810	0.1652	0.1335	6108	0.6024	0.4205
4811	0.3806	0.3139	6109	0.1541	0.0818
4812	0.5049	0.3338	6110	0.8319	0.4926
4813	0.2013	0.1534	6120	0.4159	0.2155
4900	0.2935	0.1084	6121	0.5077	0.2620
4901	0.0977	0.0462	6201	0.4482	0.2248
4902	0.1667	0.0879	6202	0.8486	0.5149
4903	0.2185	0.1273	6203	0.1190	0.1134
4904	0.0347	0.0233	6204	0.1573	0.1105
4905	0.4368	0.3645	6205	0.3494	0.2169
4906	0.1301	0.0736	6206	0.3156	0.1986
4907	0.0711	0.0481	6207	1.3533	1.1700
4908	0.1046	0.1027	6208	0.2892	0.2404
4909	0.0484	0.0588	6209	0.4011	0.2843
4910	0.6414	0.3677	6301	0.2110	0.0781
4911	0.0833	0.0468	6303	0.1055	0.0576
5001	12.2018	4.3539	6304	0.4359	0.3565
5002	0.8691	0.4365	6305	0.1360	0.0995
5003	3.5793	1.1976	6306	0.4104	0.2294
5004	1.1143	0.6147	6308	0.0923	0.0568
5005	1.0563	0.4251	6309	0.2755	0.1803
5006	2.3288	0.8032	6402	0.3511	0.2432
5101	1.3201	0.6259	6403	0.2139	0.1705
5103	0.9733	0.6476	6404	0.3375	0.2372
5106	0.9733	0.6476	6405	0.7690	0.3874
5108	1.1126	0.7164	6406	0.1560	0.1197
5109	0.8092	0.3732	6407	0.3642	0.2415

((Base Rates Effective
January 1, 2011

((Base Rates Effective
January 1, 2011

Class	((Base Rates Effective January 1, 2011		Class	((Base Rates Effective January 1, 2011	
	Accident Fund	Medical Aid Fund		Accident Fund	Medical Aid Fund
6408	0.6186	0.3278	7103	0.9515	0.4477
6409	1.0728	0.4862	7104	0.0413	0.0280
6410	0.4050	0.2482	7105	0.0388	0.0257
6501	0.2056	0.1309	7106	0.2962	0.2115
6502	0.0430	0.0264	7107	0.2785	0.2329
6503	0.1168	0.0499	7108	0.2421	0.1895
6504	0.4511	0.3708	7109	0.1856	0.1356
6505	0.1253	0.1286	7110	0.4979	0.2199
6506	0.1400	0.0983	7111	0.6881	0.2689
6509	0.4618	0.3430	7112	0.8836	0.5824
6510	0.6914	0.2977	7113	0.4934	0.3486
6511	0.4964	0.3297	7114	0.6384	0.5343
6512	0.2199	0.1241	7115	0.6760	0.4897
6601	0.2611	0.1658	7116	0.8163	0.4955
6602	0.6892	0.4561	7117	1.9260	1.1988
6603	0.4616	0.2673	7118	1.8834	1.2199
6604	0.1046	0.0723	7119	1.8968	1.0593
6605	0.4466	0.3399	7120	8.4798	4.6818
6607	0.2209	0.1396	7121	7.9178	4.3832
6608	0.9037	0.2611	7122	0.6200	0.4649
6620	4.8059	2.1491	7200	2.0381	0.8820
6704	0.1886	0.1176	7201	2.3671	0.9828
6705	0.9772	0.8269	7202	0.0466	0.0204
6706	0.3719	0.2689	7203	0.1338	0.1458
6707	5.3057	4.5925	7204	0.0000	0.0000
6708	9.0627	9.6007	7205	0.0000	0.0000
6709	0.3327	0.2475	7301	0.5904	0.3625
6801	1.0011	0.4451	7302	1.2378	0.7953
6802	0.8080	0.4691	7307	0.5858	0.3912
6803	1.4912	0.4620	7308	0.5195	0.4157
6804	0.4633	0.2922	7309	0.3086	0.2521
6809	6.1440	4.6455	7400	2.3671	0.9828))
6901	0.0000	0.0556			
6902	1.5697	0.5264			
6903	11.1708	4.2851			
6904	0.7841	0.3207			
6905	0.5840	0.3035			
6906	0.0000	0.3035			
6907	1.7689	1.0013			
6908	0.6193	0.3398			
6909	0.1527	0.1049			
7100	0.0430	0.0267			
7101	0.0328	0.0187			
7102	3.9953	4.7758			

Base Rates Effective January 1, 2012			
	<u>Accident</u>	<u>Stay at</u>	<u>Medical Aid</u>
<u>Class</u>	<u>Fund</u>	<u>Work</u>	<u>Fund</u>
0101	2.2105	0.0466	0.8308
0103	2.6331	0.0554	1.1450
0104	1.4200	0.0299	0.5971
0105	1.9557	0.0410	0.9352
0107	1.8951	0.0400	0.6787
0108	1.4200	0.0299	0.5971
0112	0.9925	0.0208	0.4440

**Base Rates Effective
January 1, 2012**

**Base Rates Effective
January 1, 2012**

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>
<u>0201</u>	<u>4.3456</u>	<u>0.0924</u>	<u>1.1014</u>	<u>1101</u>	<u>1.0912</u>	<u>0.0229</u>	<u>0.5443</u>
<u>0202</u>	<u>5.0508</u>	<u>0.1066</u>	<u>1.8416</u>	<u>1102</u>	<u>2.3102</u>	<u>0.0487</u>	<u>0.8794</u>
<u>0210</u>	<u>1.7191</u>	<u>0.0363</u>	<u>0.5995</u>	<u>1103</u>	<u>1.8556</u>	<u>0.0390</u>	<u>0.7967</u>
<u>0212</u>	<u>1.9888</u>	<u>0.0420</u>	<u>0.7148</u>	<u>1104</u>	<u>0.8493</u>	<u>0.0177</u>	<u>0.5093</u>
<u>0214</u>	<u>2.2803</u>	<u>0.0482</u>	<u>0.8078</u>	<u>1105</u>	<u>1.2965</u>	<u>0.0273</u>	<u>0.5344</u>
<u>0217</u>	<u>1.6099</u>	<u>0.0339</u>	<u>0.6533</u>	<u>1106</u>	<u>0.4204</u>	<u>0.0087</u>	<u>0.2933</u>
<u>0219</u>	<u>1.9052</u>	<u>0.0402</u>	<u>0.7511</u>	<u>1108</u>	<u>0.8800</u>	<u>0.0184</u>	<u>0.4696</u>
<u>0301</u>	<u>0.9628</u>	<u>0.0201</u>	<u>0.5333</u>	<u>1109</u>	<u>2.1337</u>	<u>0.0447</u>	<u>1.0309</u>
<u>0302</u>	<u>3.5011</u>	<u>0.0742</u>	<u>1.0826</u>	<u>1301</u>	<u>0.8316</u>	<u>0.0175</u>	<u>0.3670</u>
<u>0303</u>	<u>2.7585</u>	<u>0.0583</u>	<u>0.9281</u>	<u>1303</u>	<u>0.2942</u>	<u>0.0061</u>	<u>0.1596</u>
<u>0306</u>	<u>1.5497</u>	<u>0.0327</u>	<u>0.5738</u>	<u>1304</u>	<u>0.0415</u>	<u>0.0009</u>	<u>0.0208</u>
<u>0307</u>	<u>1.3203</u>	<u>0.0278</u>	<u>0.5477</u>	<u>1305</u>	<u>0.6940</u>	<u>0.0145</u>	<u>0.3605</u>
<u>0308</u>	<u>0.6909</u>	<u>0.0143</u>	<u>0.4492</u>	<u>1401</u>	<u>0.2742</u>	<u>0.0057</u>	<u>0.1712</u>
<u>0403</u>	<u>2.6340</u>	<u>0.0554</u>	<u>1.1070</u>	<u>1404</u>	<u>1.2236</u>	<u>0.0255</u>	<u>0.7144</u>
<u>0502</u>	<u>2.0472</u>	<u>0.0433</u>	<u>0.7162</u>	<u>1405</u>	<u>0.9958</u>	<u>0.0208</u>	<u>0.5347</u>
<u>0504</u>	<u>2.3871</u>	<u>0.0500</u>	<u>1.1730</u>	<u>1407</u>	<u>0.6542</u>	<u>0.0136</u>	<u>0.4332</u>
<u>0507</u>	<u>4.4241</u>	<u>0.0928</u>	<u>2.1162</u>	<u>1501</u>	<u>0.9043</u>	<u>0.0190</u>	<u>0.4053</u>
<u>0508</u>	<u>3.0709</u>	<u>0.0651</u>	<u>0.9016</u>	<u>1507</u>	<u>0.8600</u>	<u>0.0180</u>	<u>0.4237</u>
<u>0509</u>	<u>2.8228</u>	<u>0.0597</u>	<u>0.9398</u>	<u>1701</u>	<u>1.2465</u>	<u>0.0262</u>	<u>0.5691</u>
<u>0510</u>	<u>2.7530</u>	<u>0.0579</u>	<u>1.2024</u>	<u>1702</u>	<u>3.1784</u>	<u>0.0675</u>	<u>0.8722</u>
<u>0511</u>	<u>2.3420</u>	<u>0.0494</u>	<u>0.8910</u>	<u>1703</u>	<u>1.7181</u>	<u>0.0366</u>	<u>0.4071</u>
<u>0512</u>	<u>2.3024</u>	<u>0.0486</u>	<u>0.8803</u>	<u>1704</u>	<u>1.2465</u>	<u>0.0262</u>	<u>0.5691</u>
<u>0513</u>	<u>1.1755</u>	<u>0.0248</u>	<u>0.4710</u>	<u>1801</u>	<u>0.6838</u>	<u>0.0143</u>	<u>0.3286</u>
<u>0514</u>	<u>2.8244</u>	<u>0.0595</u>	<u>1.1351</u>	<u>1802</u>	<u>1.1202</u>	<u>0.0234</u>	<u>0.5777</u>
<u>0516</u>	<u>2.4727</u>	<u>0.0521</u>	<u>0.9671</u>	<u>2002</u>	<u>1.1230</u>	<u>0.0234</u>	<u>0.6343</u>
<u>0517</u>	<u>3.4242</u>	<u>0.0720</u>	<u>1.4518</u>	<u>2004</u>	<u>1.0650</u>	<u>0.0222</u>	<u>0.5907</u>
<u>0518</u>	<u>2.2222</u>	<u>0.0469</u>	<u>0.8042</u>	<u>2007</u>	<u>0.7568</u>	<u>0.0158</u>	<u>0.4403</u>
<u>0519</u>	<u>2.7195</u>	<u>0.0572</u>	<u>1.1272</u>	<u>2008</u>	<u>0.5051</u>	<u>0.0105</u>	<u>0.2826</u>
<u>0521</u>	<u>0.8364</u>	<u>0.0176</u>	<u>0.3559</u>	<u>2009</u>	<u>0.4868</u>	<u>0.0101</u>	<u>0.3134</u>
<u>0601</u>	<u>0.9290</u>	<u>0.0196</u>	<u>0.3690</u>	<u>2101</u>	<u>1.0314</u>	<u>0.0215</u>	<u>0.6207</u>
<u>0602</u>	<u>1.1531</u>	<u>0.0244</u>	<u>0.3914</u>	<u>2102</u>	<u>0.8100</u>	<u>0.0169</u>	<u>0.4732</u>
<u>0603</u>	<u>1.5984</u>	<u>0.0338</u>	<u>0.5377</u>	<u>2104</u>	<u>0.3553</u>	<u>0.0073</u>	<u>0.3232</u>
<u>0604</u>	<u>1.5021</u>	<u>0.0313</u>	<u>0.8464</u>	<u>2105</u>	<u>0.7492</u>	<u>0.0156</u>	<u>0.4489</u>
<u>0606</u>	<u>0.7915</u>	<u>0.0166</u>	<u>0.4146</u>	<u>2106</u>	<u>0.6495</u>	<u>0.0135</u>	<u>0.3922</u>
<u>0607</u>	<u>0.9780</u>	<u>0.0205</u>	<u>0.4598</u>	<u>2201</u>	<u>0.3242</u>	<u>0.0067</u>	<u>0.1964</u>
<u>0608</u>	<u>0.4868</u>	<u>0.0102</u>	<u>0.2319</u>	<u>2202</u>	<u>1.0958</u>	<u>0.0229</u>	<u>0.5719</u>
<u>0701</u>	<u>3.4845</u>	<u>0.0742</u>	<u>0.7547</u>	<u>2203</u>	<u>0.6098</u>	<u>0.0126</u>	<u>0.4096</u>
<u>0803</u>	<u>0.7222</u>	<u>0.0151</u>	<u>0.3850</u>	<u>2204</u>	<u>0.3242</u>	<u>0.0067</u>	<u>0.1964</u>
<u>0901</u>	<u>2.2222</u>	<u>0.0469</u>	<u>0.8042</u>	<u>2401</u>	<u>0.7318</u>	<u>0.0154</u>	<u>0.3098</u>
<u>1002</u>	<u>1.4141</u>	<u>0.0297</u>	<u>0.6689</u>	<u>2903</u>	<u>0.8800</u>	<u>0.0183</u>	<u>0.5271</u>
<u>1003</u>	<u>1.1516</u>	<u>0.0241</u>	<u>0.5890</u>	<u>2904</u>	<u>1.0020</u>	<u>0.0210</u>	<u>0.5214</u>
<u>1004</u>	<u>0.8553</u>	<u>0.0180</u>	<u>0.3527</u>	<u>2905</u>	<u>0.8813</u>	<u>0.0183</u>	<u>0.5475</u>
<u>1005</u>	<u>13.3633</u>	<u>0.2821</u>	<u>4.8795</u>	<u>2906</u>	<u>0.4895</u>	<u>0.0102</u>	<u>0.3005</u>
<u>1007</u>	<u>0.5610</u>	<u>0.0118</u>	<u>0.2085</u>	<u>2907</u>	<u>0.7303</u>	<u>0.0152</u>	<u>0.4173</u>

**Base Rates Effective
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<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>
2908	1.5998	0.0335	0.8051	3906	0.5887	0.0122	0.3904
2909	0.5307	0.0110	0.3286	3909	0.4227	0.0088	0.2737
3101	1.0759	0.0226	0.5131	4002	1.9645	0.0414	0.7827
3102	0.3753	0.0078	0.2036	4101	0.4982	0.0104	0.2634
3103	0.7554	0.0158	0.3843	4103	0.7123	0.0148	0.4431
3104	0.9078	0.0190	0.4502	4107	0.2297	0.0048	0.1237
3105	0.9994	0.0208	0.5889	4108	0.2705	0.0056	0.1628
3303	0.6148	0.0128	0.3420	4109	0.2838	0.0059	0.1611
3304	0.6452	0.0134	0.4488	4201	1.1351	0.0240	0.4036
3309	0.5653	0.0118	0.2789	4301	0.8753	0.0181	0.5803
3402	0.7709	0.0161	0.3951	4302	0.9901	0.0207	0.5367
3403	0.3013	0.0063	0.1569	4304	1.1860	0.0246	0.8049
3404	0.6652	0.0139	0.3742	4305	1.8151	0.0382	0.7653
3405	0.3749	0.0078	0.2315	4401	0.5580	0.0116	0.3677
3406	0.3299	0.0068	0.2159	4402	1.1387	0.0237	0.6446
3407	1.2434	0.0261	0.5365	4404	0.7050	0.0146	0.4476
3408	0.3037	0.0063	0.1682	4501	0.2355	0.0049	0.1771
3409	0.2039	0.0042	0.1321	4502	0.0563	0.0012	0.0357
3410	0.2904	0.0060	0.2073	4504	0.1546	0.0032	0.1129
3411	0.7967	0.0167	0.3631	4601	1.1012	0.0230	0.5819
3412	0.9522	0.0201	0.3743	4802	0.4492	0.0093	0.2945
3414	0.8619	0.0180	0.4362	4803	0.3295	0.0067	0.2969
3415	1.2706	0.0266	0.6082	4804	0.6169	0.0128	0.4349
3501	1.5072	0.0316	0.7602	4805	0.3826	0.0079	0.2662
3503	0.3620	0.0074	0.2970	4806	0.0794	0.0016	0.0555
3506	1.4112	0.0298	0.5215	4808	0.6297	0.0131	0.4010
3509	0.4978	0.0103	0.3392	4809	0.3927	0.0081	0.2903
3510	0.4613	0.0096	0.2752	4810	0.1676	0.0034	0.1368
3511	0.8813	0.0184	0.4662	4811	0.4042	0.0083	0.3327
3512	0.4953	0.0103	0.3352	4812	0.5011	0.0104	0.3264
3513	0.6765	0.0140	0.4620	4813	0.2069	0.0043	0.1586
3602	0.1631	0.0034	0.0948	4900	0.2852	0.0060	0.1034
3603	0.6406	0.0133	0.3876	4901	0.0971	0.0020	0.0446
3604	1.0045	0.0208	0.7010	4902	0.1716	0.0036	0.0905
3605	0.7857	0.0165	0.3777	4903	0.2117	0.0044	0.1280
3701	0.3753	0.0078	0.2036	4904	0.0336	0.0007	0.0223
3702	0.6220	0.0130	0.3368	4905	0.4484	0.0092	0.3682
3708	0.8533	0.0179	0.4176	4906	0.1348	0.0028	0.0733
3802	0.2754	0.0057	0.1710	4907	0.0735	0.0015	0.0483
3808	0.6428	0.0135	0.2786	4908	0.1124	0.0023	0.1022
3901	0.1927	0.0040	0.1560	4909	0.0495	0.0010	0.0575
3902	0.5878	0.0122	0.4044	4910	0.6647	0.0139	0.3686
3903	1.4014	0.0290	0.9893	4911	0.0855	0.0018	0.0475
3905	0.1755	0.0036	0.1431	5001	13.4672	0.2846	4.7177

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<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>
5002	0.8856	0.0186	0.4382	6305	0.1365	0.0028	0.0976
5003	3.5730	0.0756	1.1465	6306	0.4224	0.0088	0.2299
5004	1.1281	0.0236	0.6035	6308	0.0967	0.0020	0.0554
5005	1.1352	0.0239	0.4552	6309	0.2834	0.0059	0.1792
5006	2.3677	0.0501	0.8017	6402	0.3556	0.0074	0.2466
5101	1.3857	0.0291	0.6151	6403	0.2001	0.0041	0.1600
5103	1.0423	0.0216	0.7068	6404	0.3333	0.0069	0.2360
5106	1.0423	0.0216	0.7068	6405	0.8104	0.0170	0.3962
5108	1.1374	0.0236	0.7126	6406	0.1556	0.0032	0.1179
5109	0.8552	0.0180	0.3777	6407	0.3596	0.0075	0.2370
5201	0.5674	0.0119	0.2877	6408	0.6408	0.0134	0.3325
5204	1.4256	0.0299	0.6562	6409	1.1063	0.0232	0.5011
5206	0.5613	0.0118	0.2660	6410	0.4196	0.0087	0.2475
5207	0.1824	0.0038	0.1434	6501	0.2071	0.0043	0.1321
5208	1.0491	0.0219	0.6079	6502	0.0425	0.0009	0.0265
5209	1.0129	0.0212	0.5164	6503	0.1153	0.0024	0.0478
5300	0.1809	0.0038	0.0927	6504	0.4477	0.0092	0.3686
5301	0.0532	0.0011	0.0306	6505	0.1354	0.0028	0.1332
5302	0.0223	0.0005	0.0116	6506	0.1492	0.0031	0.1032
5305	0.0742	0.0015	0.0497	6509	0.4506	0.0093	0.3356
5306	0.0662	0.0014	0.0463	6510	0.6974	0.0147	0.3007
5307	0.9691	0.0204	0.4352	6511	0.4939	0.0102	0.3313
5308	0.1323	0.0027	0.0919	6512	0.2110	0.0044	0.1156
6103	0.0966	0.0020	0.0821	6601	0.2742	0.0057	0.1712
6104	0.5004	0.0104	0.3194	6602	0.6634	0.0137	0.4489
6105	0.5820	0.0122	0.2733	6603	0.4418	0.0092	0.2632
6107	0.1815	0.0037	0.1567	6604	0.1043	0.0022	0.0725
6108	0.6014	0.0124	0.4158	6605	0.5033	0.0104	0.3501
6109	0.1534	0.0032	0.0812	6607	0.2159	0.0045	0.1383
6110	0.8184	0.0171	0.4733	6608	0.9544	0.0203	0.2638
6120	0.4615	0.0097	0.2257	6620	4.9278	0.1035	2.1833
6121	0.5199	0.0109	0.2624	6704	0.1827	0.0038	0.1118
6201	0.4702	0.0099	0.2314	6705	1.0775	0.0222	0.8472
6202	0.9158	0.0191	0.5292	6706	0.3755	0.0078	0.2699
6203	0.1232	0.0025	0.1132	6707	5.5420	0.1134	4.8487
6204	0.1639	0.0034	0.1141	6708	9.2192	0.1867	9.6389
6205	0.3385	0.0070	0.2153	6709	0.3543	0.0073	0.2466
6206	0.3138	0.0065	0.1975	6801	1.0383	0.0218	0.4453
6207	1.4688	0.0302	1.2090	6802	0.8169	0.0170	0.4777
6208	0.2957	0.0061	0.2513	6803	1.4891	0.0316	0.4474
6209	0.4080	0.0084	0.2830	6804	0.4899	0.0102	0.3017
6301	0.2100	0.0044	0.0794	6809	6.2922	0.1299	4.6346
6303	0.1079	0.0023	0.0590	6901	0.0000	0.0000	0.0602
6304	0.4186	0.0086	0.3411	6902	1.5975	0.0338	0.5472

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<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>
6903	11.3751	0.2400	4.2906
6904	0.7977	0.0168	0.3227
6905	0.6054	0.0127	0.3071
6906	0.0000	0.0000	0.3071
6907	1.7741	0.0370	0.9916
6908	0.6101	0.0127	0.3290
6909	0.1509	0.0031	0.1027
7100	0.0440	0.0009	0.0269
7101	0.0339	0.0007	0.0186
7102	4.0647	0.0816	4.7986
7103	0.9822	0.0206	0.4542
7104	0.0423	0.0009	0.0281
7105	0.0379	0.0008	0.0244
7106	0.3050	0.0063	0.2178
7107	0.2861	0.0059	0.2341
7108	0.2505	0.0052	0.1981
7109	0.1913	0.0040	0.1348
7110	0.4978	0.0105	0.2183
7111	0.7311	0.0154	0.2817
7112	0.9015	0.0187	0.5976
7113	0.5071	0.0105	0.3508
7114	0.6756	0.0139	0.5716
7115	0.6764	0.0140	0.4946
7116	0.8412	0.0175	0.4952
7117	1.7846	0.0372	1.0579
7118	1.9291	0.0401	1.2187
7119	1.9057	0.0398	1.0695
7120	8.6410	0.1805	4.7014
7121	8.0832	0.1688	4.4057
7122	0.6253	0.0129	0.4452
7200	2.1977	0.0463	0.9131
7201	2.5886	0.0545	1.0643
7202	0.0457	0.0010	0.0196
7203	0.1358	0.0027	0.1483
7204	0.0000	0.0000	0.0000
7205	0.0000	0.0000	0.0000
7301	0.5851	0.0122	0.3433
7302	1.2133	0.0252	0.7860
7307	0.5805	0.0120	0.3854
7308	0.4998	0.0103	0.3802
7309	0.3219	0.0066	0.2604
7400	2.5886	0.0545	1.0643

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

((Base Rates Effective
January 1, 2011

<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
0540	0.0285	0.0124	0.0009
0541	0.0180	0.0063	0.0009
0550	0.0366	0.0124	0.0009
0551	0.0246	0.0074	0.0009))

Base Rates Effective
January 1, 2012

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
0540	0.0325	0.0007	0.0139	0.0007
0541	0.0184	0.0004	0.0064	0.0007
0550	0.0368	0.0008	0.0129	0.0007
0551	0.0239	0.0005	0.0074	0.0007

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class.

((Base Rates Effective
January 1, 2011

<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
6614	83*	66*	1
6615	479*	340*	1
6616	18*	11*	1
6617	147*	87*	1
6618	99*	50*	1
6622	95**	74**	1
6623	30**	14**	1))

Base Rates Effective
January 1, 2012

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
6614	100*	3*	81*	1
6615	539*	12*	376*	1
6616	19*	0*	10*	1

Base Rates Effective
January 1, 2012

<u>Class</u>	<u>Accident Fund</u>	<u>Stay at Work</u>	<u>Medical Aid Fund</u>	<u>Supplemental Pension Fund</u>
6617	151*	3*	88*	1
6618	84*	2*	63*	1
6622	102**	3*	84**	1
6623	22**	1*	11**	1

* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

** These rates are calculated on a per horse (~~stall~~) basis for parimutuel race tracks and are base rated.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17-89503 Farm internship program industrial insurance, accident fund and medical aid fund by class.

AMENDATORY SECTION (Amending WSR 10-21-086, filed 10/19/10, effective 11/19/10)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate loss development, and discount factors to determine the initial loss incurred.

If you have a fatality, we will use two hundred (~~eighty~~) eighty-seven thousand four hundred ten dollars as the claim's initial incurred loss for the claim, with two hundred seventy-five thousand three hundred nine dollars for accident fund incurred loss and twelve thousand one hundred one dollars for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES

Effective January 1, (~~2011~~) 2012

Size Group Number	Standard Premium Range	
	From:	To:
(1)	\$ 5,610	- \$ 6,559
2	6,560	- 7,419
3	7,420	- 8,349
4	8,350	- 9,359
5	9,360	- 10,429
6	10,430	- 11,569
7	11,570	- 12,799
8	12,800	- 14,099
9	14,100	- 15,479
10	15,480	- 16,929
11	16,930	- 18,489
12	18,490	- 20,129
13	20,130	- 21,879
14	21,880	- 23,729
15	23,730	- 25,679
16	25,680	- 27,759
17	27,760	- 29,949
18	29,950	- 32,279
19	32,280	- 34,729
20	34,730	- 37,339
21	37,340	- 40,109
22	40,110	- 43,049
23	43,050	- 46,169
24	46,170	- 49,489
25	49,490	- 53,009
26	53,010	- 56,759
27	56,760	- 60,749
28	60,750	- 64,999
29	65,000	- 69,529
30	69,530	- 74,359
31	74,360	- 79,529
32	79,530	- 85,069
33	85,070	- 91,009
34	91,010	- 97,379
35	97,380	- 104,199
36	104,200	- 111,599
37	111,600	- 119,699
38	119,700	- 128,199
39	128,200	- 137,499

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
40	137,500	147,499	12	18,750	20,419
41	147,500	158,199	13	20,420	22,189
42	158,200	169,799	14	22,190	24,069
43	169,800	182,199	15	24,070	26,049
44	182,200	195,799	16	26,050	28,159
45	195,800	210,399	17	28,160	30,379
46	210,400	226,299	18	30,380	32,739
47	226,300	243,599	19	32,740	35,229
48	243,600	262,499	20	35,230	37,869
49	262,500	283,299	21	37,870	40,679
50	283,300	305,999	22	40,680	43,669
51	306,000	331,199	23	43,670	46,829
52	331,200	359,199	24	46,830	50,199
53	359,200	390,299	25	50,200	53,769
54	390,300	424,999	26	53,770	57,569
55	425,000	464,199	27	57,570	61,619
56	464,200	508,599	28	61,620	65,929
57	508,600	558,899	29	65,930	70,519
58	558,900	616,899	30	70,520	75,419
59	616,900	683,699	31	75,420	80,669
60	683,700	761,699	32	80,670	86,289
61	761,700	853,499	33	86,290	92,309
62	853,500	962,999	34	92,310	98,769
63	963,000	1,094,999	35	98,770	105,699
64	1,095,000	1,257,999	36	105,700	113,199
65	1,258,000	1,460,999	37	113,200	121,399
66	1,461,000	1,723,999	38	121,400	129,999
67	1,724,000	2,070,999	39	130,000	139,499
68	2,071,000	2,554,999	40	139,500	149,599
69	2,555,000	3,268,999	41	149,600	160,499
70	3,269,000	4,446,999	42	160,500	172,199
71	4,447,000	6,664,999	43	172,200	184,799
72	6,665,000	12,199,999	44	184,800	198,599
73	12,200,000	31,209,999	45	198,600	213,399
74	31,210,000	and over))	46	213,400	229,499
1	5,690	6,649	47	229,500	247,099
2	6,650	7,529	48	247,100	266,299
3	7,530	8,469	49	266,300	287,399
4	8,470	9,489	50	287,400	310,399
5	9,490	10,579	51	310,400	335,899
6	10,580	11,739	52	335,900	364,299
7	11,740	12,979	53	364,300	395,899
8	12,980	14,299	54	395,900	431,099
9	14,300	15,699	55	431,100	470,799
10	15,700	17,169	56	470,800	515,899
11	17,170	18,749	57	515,900	566,899

Size Group Number	Standard Premium Range	
	From:	To:
<u>58</u>	<u>566,900</u>	= <u>625,699</u>
<u>59</u>	<u>625,700</u>	= <u>693,499</u>
<u>60</u>	<u>693,500</u>	= <u>772,599</u>
<u>61</u>	<u>772,600</u>	= <u>865,699</u>
<u>62</u>	<u>865,700</u>	= <u>976,799</u>
<u>63</u>	<u>976,800</u>	= <u>1,110,999</u>
<u>64</u>	<u>1,111,000</u>	= <u>1,275,999</u>
<u>65</u>	<u>1,276,000</u>	= <u>1,481,999</u>
<u>66</u>	<u>1,482,000</u>	= <u>1,748,999</u>
<u>67</u>	<u>1,749,000</u>	= <u>2,100,999</u>
<u>68</u>	<u>2,101,000</u>	= <u>2,591,999</u>
<u>69</u>	<u>2,592,000</u>	= <u>3,315,999</u>
<u>70</u>	<u>3,316,000</u>	= <u>4,510,999</u>
<u>71</u>	<u>4,511,000</u>	= <u>6,759,999</u>
<u>72</u>	<u>6,760,000</u>	= <u>12,369,999</u>
<u>73</u>	<u>12,370,000</u>	= <u>31,659,999</u>
<u>74</u>	<u>31,660,000</u>	= <u>and over</u>

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Other Authority: "Supplemental Nutrition Assistance Program Fiscal Year 2012 Cost of Living Adjustments" memo dated August 2, 2011; and "SNAP Standard Utility (SUA) Annual Review and Adjustment Waiver for Certain States—Modification and Extension" memo dated December 2, 2010.

Adopted under notice filed as WSR 11-18-095 on September 7, 2011.

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

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

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

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

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

Date Adopted: November 30, 2011.

Katherine I. Vasquez
Rules Coordinator

WSR 11-24-027
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed December 1, 2011, 10:12 a.m., effective January 1, 2012]

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

Purpose: The department is amending WAC 388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060 to increase:

- The standard deduction for Basic Food one, two, and three persons from \$142 to \$147; four persons from \$153 to \$155; and six or more persons from \$205 to \$208.
- The standard utility allowance (SUA) for Basic Food from \$385 to \$394.
- The maximum shelter cost for Basic Food from \$458 to \$459.
- The Basic Food maximum gross monthly income, maximum net monthly income, and one hundred sixty-five percent of poverty level amount.

The proposed amendments update Basic Food standards for federal fiscal year 2012 in order to comply with requirements of the United States Department of Agriculture, Food and Nutrition Service (FNS).

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0185, 388-450-0190, 388-450-0195, and 388-478-0060.

AMENDATORY SECTION (Amending WSR 10-23-114, filed 11/17/10, effective 12/18/10)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits? We determine if your assistance unit (AU) is eligible for Basic Food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

These federal laws allow us to subtract **only** the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(1) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
1	\$((142)) <u>147</u>
2	\$((142)) <u>147</u>
3	\$((142)) <u>147</u>
4	\$((153)) <u>155</u>
5	\$((179)) <u>181</u>
6 or more	\$((205)) <u>208</u>

- (2) Twenty percent of your AU's gross earned income (earned income deduction);
- (3) Your AU's expected monthly dependent care expense needed for an AU member to:
 - (a) Keep work, look for work, or accept work;
 - (b) Attend training or education to prepare for employment; or
 - (c) Meet employment and training requirements under chapter 388-444 WAC.
- (4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.
- (5) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 10-23-114, filed 11/17/10, effective 12/18/10)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

- (1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:
 - (a) Monthly rent, lease, and mortgage payments;
 - (b) Property taxes;
 - (c) Homeowner's association or condo fees;
 - (d) Homeowner's insurance for the building only;
 - (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
 - (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
 - (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if you:
 - (i) AU intends to return to the home;
 - (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
 - (iii) AU's home is not being leased or rented during your AU's absence.
- (2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

- (3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:
 - (a) Up to a maximum of four hundred (~~(fifty-eight)~~) fifty-nine dollars if no one in your AU is elderly or disabled; or
 - (b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred (~~(fifty-eight)~~) fifty-nine dollars.

AMENDATORY SECTION (Amending WSR 10-18-050, filed 8/26/10, effective 10/1/10)

WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASH-CAP benefits? (1) We use a standard utility allowance (SUA) of three hundred (~~(eighty-five)~~) ninety-four dollars instead of your actual utility costs when we determine your assistance unit's:

- (a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or
- (b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.
- (2) We considered the average cost of the following utilities to determine the value of the SUA:
 - (a) Heating and cooling fuel such as electricity, oil, or gas;
 - (b) Electricity;
 - (c) Water and sewer;
 - (d) Well or septic tank installation/maintenance;
 - (e) Garbage/trash collection; and
 - (f) Telephone service.
- (3) The department uses the SUA if you have utility costs separate from your rent or mortgage payment or if you receive a low income home energy assistance program (LIHEAP) benefit during the year.

AMENDATORY SECTION (Amending WSR 09-24-001, filed 11/18/09, effective 12/19/09)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE (~~(10-1-2009)~~) 10-1-2011

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$(1,174) <u>1,180</u>	\$(903) <u>908</u>	\$200	\$(1,490) <u>1,498</u>
2	\$(1,579) <u>1,594</u>	\$(1,215) <u>1,226</u>	367	\$(2,004) <u>2,023</u>

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
3	((1,984)) <u>2,008</u>	((1,526)) <u>1,545</u>	526	((2,518)) <u>2,548</u>
4	((2,389)) <u>2,422</u>	((1,838)) <u>1,863</u>	668	((3,032)) <u>3,074</u>
5	((2,794)) <u>2,836</u>	((2,150)) <u>2,181</u>	793	((3,547)) <u>3,599</u>
6	((3,200)) <u>3,249</u>	((2,461)) <u>2,500</u>	952	((4,061)) <u>4,124</u>
7	((3,605)) <u>3,663</u>	((2,773)) <u>2,818</u>	1,052	((4,575)) <u>4,649</u>
8	((4,010)) <u>4,077</u>	((3,085)) <u>3,136</u>	1,202	((5,089)) <u>5,175</u>
9	((4,416)) <u>4,491</u>	((3,397)) <u>3,455</u>	1,352	((5,604)) <u>5,701</u>
10	((4,822)) <u>4,905</u>	((3,709)) <u>3,744</u>	1,502	((6,119)) <u>6,227</u>
Each Additional Member	+ ((406)) <u>414</u>	+ ((312)) <u>319</u>	+150	+ ((515)) <u>526</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

Limit Increase for Households with and [an] Elderly or Disabled Member."

Citation of Existing Rules Affected by this Order: Amending WAC 388-470-0005.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Other Authority: Supplemental Nutrition Assistance Program Administrative Notice 11-37, "Supplemental Nutrition Assistance Program FY 2012 Asset Limit Increase for Households with and [an] Elderly or Disabled Member."

Adopted under notice filed as WSR 11-21-026 on October 11, 2011.

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

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

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

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

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

Date Adopted: November 30, 2011.

Katherine I. Vasquez
Rules Coordinator

WSR 11-24-028
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed December 1, 2011, 10:14 a.m., effective January 1, 2012]

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

Purpose: The department is amending WAC 388-470-0005 to increase the resource limit for households with elderly and disabled members from \$3,000 to \$3,250 (fiscal year (FY) 2012).

This amendment is necessary in order to comply with requirements of the United States Department of Agriculture, Food and Nutrition Service (FNS), per Supplemental Nutrition Assistance Program Administrative Notice 11-37, "Supplemental Nutrition Assistance Program FY 2012 Asset

AMENDATORY SECTION (Amending WSR 03-05-015, filed 2/7/03, effective 3/1/03)

WAC 388-470-0005 How do resources affect my eligibility for cash assistance, medical assistance, and Basic Food? (1) The following definitions apply to this chapter:

(a) **"We"** means the department of social and health services.

(b) **"You"** means a person applying for or getting benefits from the department.

(c) **"Fair market value (FMV)"** means the price at which you could reasonably sell the resource.

(d) **"Equity value"** means the FMV minus any amount you owe on the resource.

(e) **"Community property"** means a resource in the name of the husband, wife, or both.

(f) **"Separate property"** means a resource of a married person that one of the spouses:

(i) Had possession of and paid for before they were married;

(ii) Acquired and paid for entirely out of income from separate property; or

(iii) Received as a gift or inheritance.

(2) We count a resource to decide if your assistance unit (AU) is eligible for cash assistance, family medical programs, or Basic Food when:

(a) It is a resource we must count under WAC 388-470-0045 and 388-470-0055;

(b) You own the resource. We consider you to own a resource if:

(i) Your name is on the title to the property; or

(ii) You have property that doesn't have a title; and

(c) You have control over the resource, which means the resource is actually available to you; and

(d) You could legally sell the resource or convert it into cash within twenty days.

(3) For cash assistance and family medical programs, you must try to make your resources available even if it will take you more than twenty days to do so, unless:

(a) There is a legal barrier; or

(b) You must petition the court to release part or all of a resource.

(4) When you apply for assistance, we count your resources as of:

(a) The date of your interview, if you are required to have an interview; or

(b) The date of your application, if you are not required to have an interview; or

(c) The first day of the month of application, for medical assistance.

(5) If your total countable resources are over the resource limit in subsection (6) through (13) of this section, you are not eligible for benefits.

(6) For cash assistance and applicants for family medical programs, we use the equity value as the value of your resources.

(a) Applicants can have countable resources up to one thousand dollars.

(b) Recipients of cash assistance can have an additional three thousand dollars in a savings account.

(7) Recipients of family medical programs do not have a resource limit.

(8) We do not count your resources for children's medical or pregnancy medical benefits.

(9) For SSI-related medical assistance, see chapter 388-475 WAC.

(10) For clients receiving institutional or waived services, see chapters 388-513 and 388-515 WAC.

(11) If your household consists of more than one medical assistance unit (MAU), as described in WAC 388-408-0055, we look at the resources for each MAU separately.

(12) If your AU is categorically eligible (CE) as described in WAC 388-414-0001, you do not have a resource limit for Basic Food.

(13) If your AU is not CE under WAC 388-414-0001, your AU may have countable resources up to the following amount and be eligible for Basic Food:

(a) Three thousand two hundred fifty dollars if your AU has either an elderly or disabled individual; or

(b) Two thousand dollars for all other AUs.

(14) If you own a countable resource with someone who is not in your AU, we count the portion of the resource that you own. If we cannot determine how much of the resource is yours:

(a) For cash assistance, we count an equal portion of the resource that belongs to each person who owns it.

(b) For medical assistance and Basic Food, we count the entire amount unless you can prove that the entire amount is not available to you.

(15) We assume that you have control of community property and you can legally sell the property or convert it to cash unless you can show that you do not.

(16) We may not consider an item to be separate property if you used both separate and community funds to buy or improve it.

(17) We do not count the resources of victims of family violence when:

(a) The resource is owned jointly with members of the former household; or

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the client at risk of harm.

(18) You may give us proof about a resource anytime, including when we ask for it or if you disagree with a decision we made, about:

(a) Who owns a resource;

(b) Who has legal control of the resource;

(c) The value of a resource;

(d) The availability of a resource; or

(e) The portion of a property you or another person owns.

WSR 11-24-031

PERMANENT RULES

TACOMA COMMUNITY COLLEGE

[Filed December 1, 2011, 11:27 a.m., effective January 1, 2012]

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

Purpose: Repealing chapter 132V-120 WAC, Code of student rights and responsibilities; and adopting chapter 132V-121 WAC, Code of student conduct.

Changes to language in the new code of student conduct reflect best practices in the field of student conduct administration. In particular, wording has changed from that of a "judicial" or "criminal" proceeding to an administrative one, while recognizing procedural due process rights for students. This is congruent with the educational mission of the institution and results in clearer wording and better understanding for students, staff, and faculty.

Citation of Existing Rules Affected by this Order: Repealing chapter 132V-120 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 11-20-045 on September 28, 2011.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 8, Amended 0, Repealed 36.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, Amended 0, Repealed 36.

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

Date Adopted: November 9, 2011.

Mary A. Chikwinya
Vice-President for
Student Services

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132V-120-010	Title.
WAC 132V-120-020	Definitions.
WAC 132V-120-030	Jurisdiction.
WAC 132V-120-040	Student rights.
WAC 132V-120-050	Student responsibilities.
WAC 132V-120-060	Authority of the president to prohibit trespass.
WAC 132V-120-070	Summary suspension proceedings.
WAC 132V-120-080	Notice of summary proceedings.
WAC 132V-120-090	Procedures of summary suspension hearing.

WAC 132V-120-100	Decision by chief student services officer.
WAC 132V-120-110	Notice of suspension.
WAC 132V-120-120	Suspension for failure to appear.
WAC 132V-120-130	Appeal of summary suspension.
WAC 132V-120-140	Summary suspension proceedings not duplicative.
WAC 132V-120-150	Purpose of disciplinary actions.
WAC 132V-120-160	Disciplinary action.
WAC 132V-120-170	Initiation of disciplinary proceedings.
WAC 132V-120-180	Disciplinary proceedings.
WAC 132V-120-200	Composition of student rights and responsibilities committee.
WAC 132V-120-210	Hearing procedures before the student rights and responsibilities committee.
WAC 132V-120-220	Conduct of hearings.
WAC 132V-120-230	Evidence admissible in hearings.
WAC 132V-120-240	Decision by the committee.
WAC 132V-120-241	Notification of decision and sanctions imposed.
WAC 132V-120-245	Appeal process.
WAC 132V-120-260	Suspension—Reestablishment of academic standing.
WAC 132V-120-270	Student grievances.
WAC 132V-120-280	Grievances excluded from this section.
WAC 132V-120-290	Grievance procedures.
WAC 132V-120-295	Grievance procedures appeal process.
WAC 132V-120-300	Final decision regarding student grievances.
WAC 132V-120-310	Nature of grievance proceedings.
WAC 132V-120-320	Withdrawal of grievance.
WAC 132V-120-335	Student grievance procedure for final course grades.
WAC 132V-120-340	Final course grade grievance process.

WAC 132V-120-345 Final course grade grievance appeal process.

Chapter 132V-121 WAC

CODE OF STUDENT CONDUCT

NEW SECTION

WAC 132V-121-010 Preamble. Tacoma Community College has a responsibility to create and maintain an environment that balances freedom of expression with freedom from threats to safety, both physical and emotional. Each member of the college community is obligated to act in a manner that promotes the college's mission of meaningful and relevant learning, equity and student success.

Admission to Tacoma Community College carries with it the expectation that the student will conduct himself/herself as a responsible member of the academic community and observe the principles of mutual respect, personal and academic integrity and civility. The code of student conduct establishes rules governing academic and social conduct of students, including due process rights.

NEW SECTION

WAC 132V-121-020 Title. This chapter will be known as the code of student conduct of Tacoma Community College.

NEW SECTION

WAC 132V-121-030 Definitions. The definitions and phrases in this section apply throughout this chapter.

Academic misconduct is the violation of college policies (e.g., tampering with grades, taking part in obtaining or distributing any part of an exam prior to the scheduled testing time).

Calendar day means all days of the month, not just instructional days. In cases where a specified due date falls on a weekend or holiday, the working day closest to the date due will be used (i.e., if the seventh day deadline falls on Saturday the document will be due on Friday).

Cheating includes, but is not limited to, when a student misrepresents that he or she mastered information on an academic exercise.

College means Tacoma Community College main campus and any other campus or college facility which may be created by the board of trustees.

College employee includes any person employed by the college performing assigned administrative or professional responsibilities.

College premises includes all land, buildings, facilities and other property in the possession of or owned, used, controlled, or leased/rented by the college, and agencies or institutions that have educational agreements with the college, extending to associated electronic communication including web sites and distance learning classroom environments.

Complainant means any person who alleges that a student violated the code of student conduct.

Conduct hold means a block prohibiting the student from registering for classes until he or she receives clearance from the student conduct administrator.

Fabrication is the use of invented information or the falsification of research or other findings with the intent to deceive or mislead.

Faculty means any person hired by the college to conduct classroom or teaching activities or who is otherwise considered by the college to be a member of its faculty.

Instructional day means any regularly scheduled instructional day designated in the instructional calendar, including summer quarter, as a day when classes are held or during final examination week. Saturdays and Sundays are not regularly scheduled instructional days.

May is used in the permissive sense.

Member of the college community includes any person who is a student, faculty member, college employee, or volunteer. A person's status in a particular situation will be determined by the student conduct administrator.

Plagiarism includes, but is not limited to, the inclusion of someone else's words, ideas or data as one's own work.

Policy means the written regulations of the college as found in, but not limited to, the code of student conduct, college web site, college catalog, and college administrative manual.

Respondent means any student accused of violating the code of student conduct.

Student conduct administrator means a college employee authorized by the vice-president for student services to impose consequences upon any student(s) found to have violated the code of student conduct.

Student conduct appeal board means members of the college community authorized by the vice-president for student services to hear an appeal by a student of a student conduct administrator's determination and imposed consequences for an alleged violation of the code of student conduct.

Student means any person who is admitted to or enrolled for classes through the college, including any person in affiliated distance learning courses. Admitted or enrolled students who withdraw after allegedly violating the code are considered students.

Will is used in the imperative sense.

NEW SECTION

WAC 132V-121-040 Code of student conduct authority. (1) The vice-president for student services will develop policies for the administration of the student conduct system and procedural rules for the conduct of student conduct appeal board hearings that are consistent with provisions of the code of student conduct.

(2) Decisions made by the student conduct appeal board and/or student conduct administrator will be final.

NEW SECTION

WAC 132V-121-050 Jurisdiction of the college code of student conduct. (1) The college code of student conduct will apply to conduct that occurs on college premises, at college sponsored activities, and to off-campus conduct that

adversely affects the college community and/or the pursuit of its objectives.

(2) Each student will be responsible for his/her conduct beginning at the time of application for admission and for the duration of their enrollment through the college, even though conduct may occur before classes begin or after classes end. The code of student conduct will apply to a student's conduct even if the student withdraws from school after the alleged misconduct has occurred.

(3) The vice-president for student services will decide whether the code of student conduct will be applied to conduct occurring off-campus, on a case-by-case basis.

(4) Violation of law and college discipline.

(a) College disciplinary proceedings are separate and independent of any civil or criminal proceedings.

(b) The college will cooperate with law enforcement and other agencies in the enforcement of criminal law on campus. Members of the college community, acting in their personal capacities, are free to interact with governmental representatives as they deem appropriate.

NEW SECTION

WAC 132V-121-060 Standards for student conduct.

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary consequences outlined in WAC 132V-121-070, Code of student conduct procedures.

(1) Acts of dishonesty including, but not limited to, the following (see *Tacoma Community College Administrative Procedure for Academic Dishonesty*):

(a) Cheating, plagiarism, fabrication, academic misconduct or other forms of academic dishonesty.

(b) Withholding information or furnishing false information to any college official, faculty member or office.

(c) Forgery, alteration or misuse of any college document, record, or instrument of identification.

(2) Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.

(3) Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, or other conduct which threatens or endangers the health or safety of any person, including reckless driving.

(4) Stalking which is a pattern of unwanted behavior that is directed at a specific person that would cause a reasonable person alarm and/or fear.

(5) Sexual harassment which is defined as engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such behavior offends the recipient, causes discomfort or humiliation, or interferes with school-related performance (as stated in chapter 132V-300 WAC, Grievance Procedure—Sexual Harassment, Sex Discrimination and Disability Discrimination).

(6) Attempted or actual theft of and/or damage to property of the college or property of a member of the college community on campus.

(7) Hazing which means any method of initiation into a student group or any pastime or amusement engaged in with respect to such a group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education (as stated in chapter 132V-130 WAC, Hazing policy).

(8) Failure to comply with directions of college employees acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

(9) Unauthorized possession, duplication or use of keys to any college premises or unauthorized entry to or use of college premises.

(10) Violation of any college policy.

(11) Violation of any federal, state or local law.

(12) Being under the influence, use, possession, manufacturing or distribution of marijuana (including medical marijuana), heroin, narcotics or other controlled substances, or associated paraphernalia (pursuant to RCW 69.50.102).

(13) Being under the influence, use, possession, manufacturing or distribution of alcoholic beverages (except as expressly permitted by college regulations) at college-sponsored events. Alcoholic beverages may not, in any circumstances, be used by, possessed by or distributed to any person under twenty-one years of age.

(14) Possession of firearms, explosives, other weapons, or dangerous chemicals on college premises or use of any such item in a manner that harms, threatens or causes fear to others.

(15) Leading or inciting others to disrupt scheduled and/or normal activities on any college premises.

(16) Obstruction of the free flow of pedestrian or vehicular traffic on college premises or at college sponsored or supervised functions.

(17) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(18) Conduct that is disorderly, breach of peace, or aiding, abetting or procuring another person to breach the peace on college premises or at functions sponsored by the college or members of the academic community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his/her prior knowledge, or with his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, taking pictures of another person in a locker room or restroom without their permission.

(19) Theft or other abuse of computer facilities and resources including, but not limited to:

(a) Unauthorized entry into a file for any purpose;

(b) Use of another individual's identification and/or password without his or her permission;

(c) Use of computing facilities and resources to interfere with the work of another student, faculty member or college official;

(d) Interfering with normal operation of the college computing system;

(e) Violation of copyright laws;

(f) Any violation of the college's acceptable use of information systems and services policy.

(20) Abuse of the student conduct system including, but not limited to:

(a) Failure to obey the notice from a student conduct appeal board or college employee to appear for a meeting or hearing as part of the student conduct system;

(b) Falsification, distortion or misrepresentation of information before a student conduct appeal board;

(c) Disruption or interference with the orderly conduct of a student conduct appeal board hearing;

(d) Institution of a code of student conduct proceeding in bad faith;

(e) Attempting to discourage an individual's participation, or use of, the student conduct system;

(f) Attempting to influence the impartiality of a member of a student conduct appeal board prior to and/or during the course of the student conduct appeal board proceeding;

(g) Harassment (verbal or physical) and/or intimidation of a member of a student conduct appeal board prior to, during and/or after a code of student conduct proceeding;

(h) Failure to comply with the consequence(s) imposed under the code of student conduct;

(i) Influencing or attempting to influence another person to violate the code of student conduct system.

NEW SECTION

WAC 132V-121-070 Code of student conduct procedures. (1) Purpose. The code of student conduct procedures are designed to afford complainants and respondents a fair and accessible process that educates students about their rights and responsibilities, holds students accountable for their actions, and provides due process.

(2) Complaints and student conduct appeal board hearings.

(a) Any member of the college community may submit a complaint against a student for violation of the code of student conduct. Any complaint must be submitted in writing to the student conduct administrator within ten instructional days of the date the person became aware or reasonably can be expected to have become aware of the alleged violation of the code of student conduct.

(b) All complaints will be presented to the respondent by the college in written form (i.e., by U.S. mail to the student's address of record, to the student's TCC e-mail address, or delivered in person).

(c) The student conduct administrator will schedule an initial meeting with the respondent to discuss the complaint.

(i) During the initial meeting, the student conduct administrator will explain the process, the respondent's rights and responsibilities, and review the complaint and alleged violation(s) of the code of student conduct. The student conduct administrator will seek information from the respondent regarding the allegations and may seek additional information from other involved parties or observers.

(ii) If there is more than one respondent involved in the complaint, the student conduct administrator at sole discretion may permit the conferences concerning each respondent to be conducted either separately or jointly.

(3) The student conduct administrator will investigate to determine if the complaint has merit and will take one of the following actions:

(a) If the student conduct administrator determines that the case has no merit, the case will be dismissed;

(b) If the respondent and the student conduct administrator mutually agree to the resolution of the complaint, it will be put in writing and there will be no subsequent proceedings;

(c) If the respondent disagrees with the student conduct administrator's resolution of the complaint, the respondent may appeal the decision of the student conduct administrator to the student conduct appeal board, provided:

(i) The respondent must submit his or her appeal in writing to the student conduct administrator within seven calendar days of the date the decision is communicated to the student, either verbally or in writing, by the student conduct administrator;

(ii) A time will be set for a student conduct board appeal hearing no later than the fifteenth instructional day after the respondent's written appeal has been received by the student conduct administrator;

(d) Such other action as the student conduct administrator deems appropriate.

(4) At any time during this process, failure to meet with the student conduct administrator at the appointed time may subject the respondent to a conduct hold. If the respondent fails to meet with the student conduct administrator in a timely fashion the complaint will be determined in the respondent's absence.

(5) Student conduct appeal board hearings will be conducted according to the following guidelines:

(a) Formal rules of process, procedure, and/or rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings;

(b) The respondent will be notified in written form (i.e., by U.S. mail to the student's address of record, to the student's TCC e-mail address, or delivered in person) at least seven calendar days in advance of the hearing. Such notification will include the time, date and location of the hearing; and the specific complaints against the respondent. Upon request, any documents or other physical evidence that will be presented by any party at the hearing will be provided no less than three instructional days before the hearing to all other parties. Upon request, a list of persons who may appear at the hearing or provide written testimony for any party will be provided no less than three instructional days before the hearing to all other parties;

(c) Student conduct appeal board hearings normally will be conducted in private;

(d) The student conduct appeal board will be composed of five members. The membership will consist of one member of the exempt staff, chosen by the vice-president for student services; two faculty members chosen by the faculty union president; and two students chosen by the president of the associated student body;

(i) Chairperson. The student conduct appeal board will elect its own chairperson for each complaint brought before it.

(ii) Quorum. A quorum will consist of no less than three members, provided, that one exempt staff, one faculty and one student are present.

(iii) Substitutes:

(A) Any member of the student conduct appeal board who has direct knowledge or involvement in a complaint under consideration may be excused from participation in the hearing or appeal.

(B) Substitutes may be appointed to form a quorum.

(e) The complainant and respondent and their advisors, if any, will be allowed to attend the entire portion of the student conduct appeal board hearing at which information is received (excluding deliberations). Admission of any other person to the student conduct appeal board hearing and level of involvement will be at the sole discretion of the student conduct appeal board and/or the student conduct administrator;

(f) In student conduct appeal board hearings involving more than one respondent, the student conduct administrator, in his or her sole discretion, may permit the student conduct appeal board hearings concerning each student to be conducted either separately or jointly;

(g) The complainant and the respondent may be assisted by an advisor of their choice. The advisor must be a member of the college community and may not be an attorney. The complainant and/or the respondent is responsible for presenting his or her own information. Therefore, advisors are not permitted to speak or to participate directly in any hearing before a student conduct appeal board. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the student conduct appeal board hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor;

(h) The complainant, the respondent and the student conduct appeal board may arrange for witnesses to present pertinent information to the student conduct appeal board. The college will try to arrange the attendance of possible witnesses who are members of the college community, if reasonably possible, and who are identified by the complainant and/or respondent at least two weekdays prior to the student conduct appeal board hearing. Witnesses will provide information to and answer questions from the student conduct appeal board. Questions may be suggested by the respondent and/or complainant to be answered by each other or by other witnesses. This will be conducted by the student conduct appeal board with such questions directed to the chairperson, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. The chairperson of the student conduct appeal board will determine relevancy of the questions;

(i) Pertinent records, exhibits and written statements may be accepted as information for consideration by the student conduct appeal board at the sole discretion of the chairperson;

(j) All procedural questions are subject to the final decision of the chairperson of the student conduct appeal board;

(k) After the portion of the student conduct appeal board hearing concludes in which all pertinent information has been received, the student conduct appeal board will determine

which section(s) of the code of student conduct, if any, that the respondent has violated.

(6) The student conduct appeal board's determination will be made on the basis of whether it is more likely than not that the respondent violated the code. Formal rules of process, procedure, and/or rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings. There will be a single verbatim record, such as a tape recording, of all student conduct appeal board hearings before a student conduct appeal board (not including deliberations). Deliberations will not be recorded. The record will be the property of the college.

(7) If a respondent does not appear before a student conduct appeal board hearing, the information in support of the charges will be presented and considered even if the respondent is not present.

(8) The student conduct appeal board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, or other witness during the hearing by providing separate facilities, by using a visual screen, or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined by the vice-president for student services to be appropriate.

(9) In consultation and agreement with the vice-president for student services, the student conduct appeal board will issue a final determination as follows:

(a) The board determines that the case has no merit, and the case is dismissed;

(b) The board upholds the determination of responsibility and consequences imposed by the student conduct administrator;

(c) The board upholds part or all of the determination of responsibility and modifies the consequences.

(10) Consequences.

(a) Any student found to have violated the code of student conduct will be subject to one or more of the following consequences:

(i) Warning. Written notice to a student that the student has been in violation of college policy or has otherwise failed to meet the college's standards of conduct. Such warnings will include the statement that continuation or repetition of the specific conduct involved or other misconduct may result in one of the more serious consequences;

(ii) Reprimand. Written action censuring a student for violation of college policy or otherwise failing to meet the college's standards of conduct. The written reprimand will be filed in the office of the vice-president for student services for the duration of the student's attendance at the college. A reprimand will include the statement that continuation or repetition of the specific conduct involved or other misconduct may result in one of the more serious consequences;

(iii) Probation. Conditions placed upon the student's continued attendance for violation of this chapter. Notice will be made in writing and specify the period of probation and the conditions to be met by the student. Disciplinary probation may be for a specific term or for an indefinite period which may extend to graduation. Violation of the terms of the probation or violation of any college policy during the

probation period may be grounds for additional consequences;

(iv) Loss of privileges. Denial of specified privileges for a designated period of time;

(v) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement;

(vi) Withholding admission or degree. Admission to or a degree awarded from the college may be withheld for a specified amount of time;

(vii) Revocation of admission or degree. Admission to or a degree awarded from the college is revoked and noted on the transcript. In general this action is reserved for conduct that includes, but is not limited to, acts of dishonesty;

(viii) Discretionary consequences. Work assignments, essays, service to the college, or other related discretionary assignments;

(ix) No contact. The student may have no contact with other stated members of the college community;

(x) Suspension. Temporary dismissal from the college and termination of the person's student status;

(xi) Expulsion. Permanent dismissal from the college and termination of the person's student status.

(b) More than one of the consequences listed in (a)(i) through (xi) of this subsection may be imposed for any single violation.

(c) Consequences for conduct in class.

(i) Each faculty member is responsible for conduct in class and is authorized to take such steps as are necessary when behavior of a student interrupts the normal class procedure. When behavior is disruptive, the faculty member may dismiss the student from class for that one class period and make reasonable effort to resolve the situation. This includes electronically removing a disruptive student from on-line class situations. However, if the matter becomes so serious as to result in removing the student from the class for two consecutive class periods or when a pattern of periodic misconduct occurs, the faculty member will report the incident to the student conduct administrator in order to seek resolution to the situation and allow for due process.

(ii) Consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course. Students should refer to each of their faculty's course syllabus.

(d) Disciplinary consequences will be made part of both the complainant's and the respondent's education record. The records may be expunged of disciplinary consequences, other than expulsion, seven years after the quarter in which the incident occurred.

(11) Emergency suspension.

(a) In certain circumstances, the vice-president for student services, or designee, may impose an emergency suspension. Emergency suspension may be imposed only:

(i) To ensure the student's own physical or emotional safety and well-being; or

(ii) To ensure the safety and well-being of members of the college community or preservation of college property; or

(iii) If the student poses an ongoing threat of disruption or interference with the normal operations of the college.

(b) During the emergency suspension, a student will be denied access to the campus (including classes) and/or all other college activities or privileges for which the student might otherwise be eligible, as the vice-president for student services or the student conduct administrator may determine to be appropriate.

(c) The student will be notified in writing of this action and the reasons for the emergency suspension. The student will also be informed in writing of the time, date and place of an initial meeting.

(d) An initial meeting will take place within five instructional days of the emergency suspension. At the initial meeting the student may show cause why his or her continued presence on the campus does not constitute a threat and may contest whether a campus policy was violated.

(e) At the initial meeting the student conduct administrator, in consultation and agreement with the vice-president for student services, will decide to uphold the emergency suspension, dismiss it, or impose other consequences. The student will be informed in writing of this decision.

(f) The emergency suspension does not replace the code of student conduct procedures, which will proceed on the normal schedule, up to and through a student conduct appeal board hearing, if required.

(g) Appeals.

(i) A decision reached or a consequence imposed by the student conduct administrator may be appealed by the respondent within five instructional days of the decision. Such appeals must be in writing and delivered to the student conduct administrator who will convene a student conduct appeal board hearing as outlined in subsection (5) of this section.

(ii) The decision of the student conduct appeal board will be final.

NEW SECTION

WAC 132V-121-080 Interpretation and revision. (1)

Any question of interpretation or application of the code of student conduct will be referred to the vice-president for student services or his or her designee for final determination.

(2) The code of student conduct will be reviewed every five years under the direction of the student conduct administrator.

WSR 11-24-033

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed December 1, 2011, 2:04 p.m., effective January 1, 2012]

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

Purpose: The state board of education (SBE) repealed WAC 180-16-210 due to changes to RCW 28A.150.260 that become effective September 1, 2011, as set forth in ESHB 2261, chapter 548, Laws of 2009. The legislature is eliminating the requirement currently in state law providing that operation of a program approved by the SBE must include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not great [greater] than the

ration [ratio] of students per classroom teacher in grades four and above for such district[s]. The repeal of this rule will reflect the change in the law adopted by the legislature.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-16-210.

Adopted under notice filed as WSR 11-12-016 on May 23, 2011.

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

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

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

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

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

Date Adopted: July 14, 2011.

Kathe Taylor
Interim Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-16-210	Kindergarten through grade three students to classroom teacher ratio requirement.
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WSR 11-24-034

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed December 1, 2011, 2:09 p.m., effective January 1, 2012]

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

Purpose: The state board of education repealed WAC 180-16-215 due to recent legislation. The current version of WAC 180-16-215 is consistent with existing state statutory requirements. However, [this] is not the case as of September 1, 2011, when the definition of "school day" is changed due to legislation adopted in 2009. The basic education program requirements are set forth in statute. Therefore, it is unnecessary for the board to adopt a rule setting forth these requirements. Deletion of this rule in its entirety ensures that the rules don't conflict with state law and avoids the need to continue amending the rule to conform to subsequent changes to statutory law. The basic education program requirements will continue to be implemented as provided in WAC 180-16-215.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-16-215.

Adopted under notice filed as WSR 11-12-017 on May 23, 2011.

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

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

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

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

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

Date Adopted: July 14, 2011.

Kathe Taylor
Interim Executive Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-16-215	Minimum one hundred eighty school day year.
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WSR 11-24-057

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed December 5, 2011, 3:29 p.m., effective January 5, 2012]

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

Purpose: This rule amends WAC 296-17-920 to adjust the supplemental pension fund premium rate for 2012. This section was not included in WSR 11-24-026 dated December 1, 2011.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-920.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), and 51.04.020(1) (general authority).

Adopted under notice filed as WSR 11-19-096 on September 20, 2011.

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

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

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

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

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

Date Adopted: December 5, 2011.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 11-04-069, filed 1/28/11, effective 2/28/11)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of (~~(\$3.9)~~) 46.6 mills (~~(\$((0.0539))~~) 0.0466) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

WSR 11-24-064

PERMANENT RULES

SECRETARY OF STATE

(Elections Division)

[Filed December 6, 2011, 9:41 a.m., effective January 6, 2012]

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

Purpose: The proposed rules implement ESSB 5124, HB 1000, 2ESSB 5171, RCW 42.17A.005 (6)(a), and *Washington State Republican Party, et al. v. State of Washington*, et al., case no. C05-0927-JCC (January 11, 2011). The proposed rules also update the timing of county reviews, requirements for certification of election administrators, and deadlines for submissions to the state voters' pamphlet.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-215-020, 434-215-140, 434-219-150, 434-219-210, 434-230-060, 434-230-070, 434-250-010, 434-250-020, 434-250-040, 434-250-050, 434-250-085, 434-250-090, 434-250-300, 434-250-310, 434-250-330, 434-253-005, 434-253-010, 434-253-020, 434-253-023, 434-253-024, 434-253-025, 434-253-030, 434-253-045, 434-253-047, 434-253-048, 434-253-049, 434-253-050, 434-253-070, 434-253-080, 434-253-090, 434-253-100, 434-253-110, 434-253-115, 434-253-120, 434-253-130, 434-253-140, 434-253-150, 434-253-160, 434-253-165, 434-253-170, 434-253-200, 434-253-203, 434-253-220, 434-253-225, 434-253-240, 434-253-250, 434-253-270, 434-253-280, 434-253-290, 434-253-300, 434-253-310, 434-253-320, 434-257-010, 434-257-020, 434-257-030, 434-257-040, 434-257-070, 434-257-090, 434-257-100, 434-257-130, 434-257-140, 434-257-150, 434-261-030, 434-261-

040, 434-261-105, 434-262-075, 434-262-135, 434-262-203, 434-262-204 and 434-335-490; and amending WAC 434-208-060, 434-208-110, 434-215-005, 434-215-040, 434-215-065, 434-219-080, 434-219-100, 434-219-115, 434-219-155, 434-219-190, 434-219-230, 434-219-290, 434-219-320, 434-219-330, 434-230-015, 434-230-030, 434-230-090, 434-230-100, 434-235-010, 434-235-020, 434-235-030, 434-235-040, 434-250-030, 434-250-035, 434-250-045, 434-250-070, 434-250-080, 434-250-095, 434-250-100, 434-250-110, 434-250-120, 434-250-130, 434-250-140, 434-250-320, 434-260-020, 434-260-040, 434-260-050, 434-260-110, 434-260-130, 434-260-150, 434-260-155, 434-260-220, 434-261-005, 434-261-010, 434-261-020, 434-261-050, 434-261-055, 434-261-070, 434-261-075, 434-261-102, 434-261-110, 434-261-120, 434-262-010, 434-262-013, 434-262-020, 434-262-025, 434-262-030, 434-262-031, 434-262-040, 434-262-070, 434-262-080, 434-262-090, 434-262-100, 434-262-110, 434-262-120, 434-264-090, 434-264-130, 434-324-005, 434-324-008, 434-324-010, 434-324-020, 434-324-031, 434-324-045, 434-324-106, 434-324-115, 434-335-040, 434-335-060, and 434-335-520.

Statutory Authority for Adoption: RCW 29A.04.611, 29A.04.620, and 29A.04.630.

Adopted under notice filed as WSR 11-20-109 on October 5, 2011.

Changes Other than Editing from Proposed to Adopted Version: The adopted rules clarify phrasing and correct typos.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 9, Amended 51, Repealed 67.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 22, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 10, Amended 79, Repealed 70; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 6, 2011.

Steve Excell
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-208-060 Electronic filings. (1) In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents:

(a) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(b) Any minor party or independent candidate filing material for president and vice-president, except nominating petitions;

(c) Lists of presidential electors selected by political parties or independent candidates;

(d) Voted ballots and signed ~~((affidavits))~~ ballot declarations from service and overseas voters received no later than 8:00 p.m. on election day. Voted ballots and signed ballot declarations from voters who are neither service nor overseas voters received no later than 8:00 p.m. on election day, as long as hard copies are received ~~((prior to))~~ no later than the day before certification of the election. Consistent with WAC 434-250-080, it is the first ballot and ~~((affidavit))~~ declaration received that may be processed and counted. Voted ballots received electronically no later than 8:00 p.m. on election day are timely even if the postmark on the return envelope is after election day;

(e) Resolutions from cities, towns, and other districts calling for a special election; ~~((and))~~

(f) Voter registration forms, unless the form is illegible or the signature image is poor quality requiring the county auditor to reject the form;

(g) Signed ballot declarations, and any accompanying materials, submitted pursuant to WAC 434-261-050; and

(h) Requests to withdraw.

(2) If payment of a fee is required, ~~((acceptance of an))~~ the electronic filing is ((conditional)) not complete until the fee is received.

(3) ~~((If the original document must be signed, acceptance of an electronic filing is conditional until receipt of the original document. Except for mail ballots, the original document must be received no later than seven calendar days after receipt of the electronic filing.~~

(4) ~~((No initiative, referendum, ((or) recall, or other signature petitions ((signatures)) may be filed electronically.~~

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

~~**WAC 434-208-110 ((Applicable dates and deadlines))** References to time. ((If dates, deadlines, and time periods referenced in chapter 2, Laws of 2005, conflict with subsequently enacted law, such as chapter 344, Laws of 2006, the subsequently enacted law is effective.)) References to times of day (i.e., 8:00 p.m.) are according to Pacific Time.~~

NEW SECTION

WAC 434-208-130 Political parties. (1) For purposes of RCW 29A.04.086, "major political party" means a political party whose nominees for president and vice-president received at least five percent of the total votes cast for that office at the last preceding presidential election. A political party that qualifies as a major political party retains such status until the next presidential election at which the presidential and vice-presidential nominees of that party do not receive at least five percent of the votes cast.

(2) For purposes of RCW 42.17A.005, the secretary of state recognizes as a minor political party a political party whose nominees for president and vice-president qualified to appear on the ballot in the last preceding presidential election

according to the minor party nomination process provided in RCW 29A.20.111 through 29A.20.201. A political party that qualifies as a minor political party retains such status until certification of the next presidential election. This definition is for purposes of chapter 42.17A RCW only.

(3) As allowed by WAC 434-215-012, 434-215-120, and 434-215-130, candidates for partisan office may state a preference for any political party and are not restricted to stating a preference for a political party that meets the definition of major or minor political party. A candidate's party preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate. With the exception of elections for president and vice-president, a party's status as a major or minor political party, or a candidate's preference for a major or minor political party, plays no role in how candidates qualify to appear on the primary election ballot, qualify to appear on the general election ballot, or are elected to public office.

NEW SECTION

WAC 434-208-140 Election notices. Election notices are governed by RCW 29A.04.220 and 29A.52.XXX (section 45, chapter 10 (ESSB 5124), Laws of 2011).

(1) "Short titles for ballot measures" means the name of the jurisdiction, the measure number, and the heading or caption.

(2) The notice for elderly and disabled person required by RCW 29A.04.220 may be combined with the notice of election required by RCW 29A.52.XXX (section 45, chapter 10 (ESSB 5124), Laws of 2011) in a single publication.

(3) Public meetings associated with the election include county canvassing board meetings.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-215-005 Filing information—Questionnaire—Compiling and dissemination. (1) Prior to ~~((March))~~ February 1, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to the provisions of RCW 29A.04.321 and 29A.04.330. The questionnaire must be sent ~~((in))~~ during the ~~((year))~~ twelve months before the local jurisdiction is scheduled to elect officers. The purpose of the questionnaire shall be to confirm information which the auditor must use to properly conduct candidate filings for each office. The questionnaire should request, at a minimum, confirmation of offices to be filled at the general election that year, the name of the incumbent, and the annual salary for the position at the time of the filing period. Responses should be received prior to ~~((April))~~ March 1 of that year so that the filing information can be compiled and disseminated to the public at least two weeks prior to the candidate filing period.

(2) If a jurisdiction fails to notify the county auditor prior to the regular candidate filing period that an office is to be filled at the general election and therefore the office is not included in the regular candidate filing period, the county auditor shall ~~((conduct a special three-day filing period for~~

that office under the time frames established in RCW 29A.24.171 through 29A.24.191);

(a) Open the position during the remainder of the regular filing period if the county auditor is notified in time to provide at least three days in the regular filing period. The county auditor must post information on-line and notify the press; or

(b) Open the position during a special three-day filing period as though there is a void in candidacy per RCW 29A.24.181.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-215-040 Filing notification. Declarations of candidacy for legislative, court of appeals, and superior court districts located within one county must be filed with the county auditor. All information listed on the declaration of candidacy for these offices must be sent electronically to the secretary of state (~~(within one business))~~ the same day the filing was accepted.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-215-065 Withdrawal of candidacy. Consistent with RCW 29A.24.131, a candidate may withdraw his or her declaration of candidacy at any time before the close of business on the ~~((Thursday))~~ Monday following the last day for candidates to file. The candidate must file a signed request that his or her name not be printed on the ballot. This request to withdraw must be filed with the officer who accepted the declaration of candidacy ~~((and,))~~ Once filed, the withdrawal cannot be revoked. There shall be no withdrawal period for declarations of candidacy filed during special filing periods. ~~((The filing officer has discretion to permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary election ballots have not been formatted. If no primary election is held for that office, the filing officer has discretion to permit the withdrawal at any time before the general election ballots are formatted. If the jurisdiction is located in more than one county, withdrawal of a filing may only be accepted if ballots have not been formatted in all affected counties.))~~

NEW SECTION

WAC 434-215-165 Presidential nominations by major political parties. Nominations for president and vice-president by major political parties are conducted at each party's national convention. Immediately following the convention, each party must submit a certificate of nomination and list of electors to the secretary of state in order to place the nominees on the presidential general election ballot.

NEW SECTION

WAC 434-215-180 Write-in candidates. A candidate desiring to file as a write-in candidate must file the write-in declaration of candidacy no later than eighteen days before

election day, the deadline in RCW 29A.40.070 that ballots must be mailed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-215-020	Declaration of candidacy— Precinct committee officer.
WAC 434-215-140	Voids in candidacy and vacancies in office.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-080 Petition process for ballot access. Members of a major political party may petition the secretary of state, pursuant to the provisions of RCW 29A.56.030, to include on the presidential primary ballot the name of any candidate of that party not designated by the secretary of state under WAC 434-219-060. Petitions may be circulated for signatures not earlier than the first day following the designation of candidates by the secretary of state under WAC 434-219-060. Such petitions must be filed with the secretary of state not later than ~~((sixty))~~ seventy-five days prior to the primary, shall be accompanied by a signed, notarized statement by the candidate concerned giving his or her consent to the nomination, and must bear the signatures of at least one thousand persons registered to vote in the state of Washington at the time the petition signatures are verified.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-219-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-219-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW 29A.72.230 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and ~~((any multiple signatures from the same voter))~~ shall reject all but the first valid signature. No signature may be rejected solely on the basis that it is not accompanied by the address or precinct name or number of the signer.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-115 Withdrawal. Each candidate shall appear on the primary ballot unless, not later than ~~((fifty-two))~~ sixty-seven days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. The secretary of state shall promptly notify the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates of any names removed from the list of candidates for the presidential primary.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-155 Party declaration ~~((for absentee ballots))~~ on ballot materials. (1) Each political party declaration shall be printed on the return envelope with the standard ~~((absentee))~~ ballot ~~((oath))~~ declaration required by WAC 434-250-050. Each declaration shall be printed with a checkbox for voters to indicate the party declaration to which they subscribe. The county auditor shall provide an instruction for the party declarations substantially similar to the following: "You must mark a party checkbox in order for your presidential primary vote to count. You may only select one party."

(2) The date and signature lines for the ~~((absentee))~~ ballot ~~((oath))~~ declaration shall also serve as the date and signature lines for the political party declaration.

(3) In addition to other instructions normally provided to ~~((absentee))~~ voters, the county auditor shall ensure that voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-219-190 Special election held in conjunction with the presidential primary. If a presidential primary ~~((is scheduled concurrently with))~~ occurs at the same election as a special election ~~((under RCW 29A.04.321 or 29A.04.330))~~, all measures or candidates for office for which the voters are eligible to vote at that special election shall be listed on the ballot in such a manner that each voter can identify and vote on those candidates or measures separately from the presidential primary candidates.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-230 Processing of ~~((absentee))~~ ballots.

(1) If the voter checked a political party declaration ~~((on the absentee ballot return envelope))~~, a notation of the party checked must be made in the voter's registration file.

(2) If the ~~((return envelope))~~ declaration is not signed or the signature on the ~~((envelope))~~ declaration does not match the signature on file, the county auditor must attempt to contact the voter as outlined in WAC 434-261-050. If the voter

also failed to check a political party declaration, the county auditor must also provide the voter the opportunity to check a party declaration.

(3) The ballot must be sorted according to major party declaration choice before it is removed from the return envelope. Once the ballot is removed from the return envelope and secrecy envelope, it must be inspected and processed consistent with the party declaration ~~((on the return envelope))~~.

(4) If the voter's signature is verified, the voter may be credited with having participated in the election, even if the voter failed to check a political party declaration.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-290 Certification of presidential primary by secretary of state. County canvassing boards shall certify the results of the presidential primary ~~((fifteen))~~ fourteen days following the primary. The county auditor shall transmit the returns to the secretary of state immediately. Not later than twenty-one days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for all candidates listed on the ballot.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-320 Transmittal of political party preference data and results to the major political parties. No later than thirty days following the presidential primary:

(1) Upon request, each county auditor shall provide to the county committee of each major political party, at actual reproduction cost, the results of the presidential primary by precinct, and the names and addresses of voters registered in the county who signed a party ~~((oath for that party in a poll book, or signed a party))~~ declaration for that party ~~((on a return envelope))~~ and the signature was verified.

(2) Upon request, the secretary of state shall provide to the state committees of each major political party, at actual reproduction cost, the names and addresses of all voters registered in the state who signed a party ~~((oath for that party in a poll book, or signed a party))~~ declaration for that party ~~((on a return envelope))~~ and the signature was verified.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-330 Retention of election material.

The county auditor shall maintain all presidential primary material, including ballot request forms, ~~((absentee))~~ ballot envelopes, ~~((poll books,))~~ and ballots, for a period of twenty-two months following the presidential primary. Sixty days following certification of the presidential primary by the secretary of state, the county auditor must remove from the voter registration files any record of party designation in the presidential primary.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|---|
| WAC 434-219-150 | Party declaration at the polling place. |
| WAC 434-219-210 | Issuing polling place ballots. |

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-230-015 Ballots (~~format~~) and instructions. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A citizen of the United States;

A legal resident of the state of Washington;

At least 18 years old on election day;

Voting only once in this election;

Not under the authority of the Department of Corrections for a Washington felony conviction; and

Not disqualified from voting due to a court order.

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

County auditors may use existing stock of declarations until June 1, 2012.

(d) Explain how to make a mark, witnessed by two other people, if unable to sign the declaration;

(e) Explain how to place the ballot in the security envelope and place the security envelope in the return envelope;

(f) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(g) Explain that postage is required, if applicable;

(h) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

(i) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

(j) Include, for a primary election that includes a partisan office, a notice on an insert explaining:

"In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(k)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice-president appear on the general election ballot, the following must be added to the statement required by (k)(i) of this subsection:

"The election for president and vice-president is different. Candidates for president and vice-president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

~~((4))~~ (6)(a) If the ballot includes a partisan office, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice-president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice-president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice-president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the

party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

~~((5))~~ (7) Counties may use varying sizes and colors of ballots ~~((cards if))~~, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate ~~((absentee ballots, poll ballots, or provisional))~~ various types of ballots.

~~((6))~~ (8) Ballots shall be formatted as provided in RCW 29A.36.170. Ballots shall not be formatted as stated in RCW 29A.04.008 (6) and (7), 29A.36.104, 29A.36.106, 29A.36.121, 29A.36.161~~((4))~~ (5), and 29A.36.191.

~~((7))~~ (9) Removable stubs are not considered part of the ballot.

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-230-030 Placement of ballot measures for local units of government. All county-wide ballot measures shall be listed immediately following state ballot measures. In the absence of state ballot measures, county-wide ballot measures shall appear first where state ballot measures would appear. For other local ballot measures and offices, each county shall establish written procedures to determine the order in which local units of government are to be listed on the ballot. Such order of local governmental units shall be substantially consistent on ~~((official, absentee, and sample))~~ all ballots. The order may be determined by, but is not limited to the following: Size of jurisdictional area, alphabetical order by jurisdictional area, or such order as to provide for efficient use of ballot spacing and voting positions. Such procedures are to provide consistency from election to election within a county.

Except for county-wide ballot measures, local ballot measures and offices, if any, may be positioned in the area dedicated for that jurisdiction; or, local ballot measures may be grouped in a separate area dedicated to special measures only. This may be an area on the ballot separate from the candidates of such local government unit.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-090 Determining nominees for multiple positions. If there are two or more places to be filled for a nonpartisan office, the number of candidates ~~((equaling))~~ equaling the number of positions to be filled who receive the highest number of votes at the primary and an equal number who receive the next highest number of votes shall appear under the designation for that office.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-230-100 Political party precinct committee officer. ~~((1) In even-numbered years, the election for the~~

position of political party precinct committee officer must be held on the third Tuesday of August.

~~(2) Unlike candidates for public partisan office, candidates for precinct committee officer file and appear on the ballot as members of a major political party. The election of precinct committee officer is an intraparty election. Candidates compete against other candidates from the same political party. The candidate of each political party who receives the most votes is declared elected. Precinct committee officers are not elected according to the top two primary system established by chapter 2, Laws of 2005 (Initiative 872).~~

~~(3) Unlike candidates for public office, the order in which candidates for precinct committee officer appear on the ballot is based on each candidate's political party. The political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the other political parties following according to the number of votes cast for their nominees for president at the last presidential election. Within each party, candidates shall be listed in the order determined by lot.~~

~~(4) If no candidate files for political party precinct committee officer, the position appears on the ballot with space for a write-in. There is no special filing period, the political party does not appoint a candidate, and the election does not lapse. If no candidate is elected, the party may fill the position by appointment, pursuant to RCW 29A.28.071.~~

~~(5)(a) The position of political party precinct committee officer must appear following all measures and public offices.~~

~~(b) The heading must state, "election of political party precinct committee officer."~~

~~(c) The following explanation must be provided before the list of candidates: "Precinct committee officer is a position in each major political party. For this office only: If you consider yourself a democrat or republican, you may vote for a candidate of that party."~~

~~(d)(i) If all candidates are listed under one heading, the applicable major political party affiliation of either "democratic party candidate" or "republican party candidate" must be printed under each candidate's name. The first letter of each word must be capitalized, as shown in the following example:~~

~~John Smith~~

~~Democratic Party Candidate~~

~~The race must explain, "for a write-in candidate, include party."~~

~~(ii) If candidates are listed under a major political party heading, the applicable heading of either "democratic party candidates" or "republican party candidates" must be printed above each group of candidates. The first letter of each word must be capitalized. Space for a write-in must be provided for each political party heading.~~

~~(6) A voter may vote for only one candidate for precinct committee officer. If a voter votes for more than one candidate, the votes must be treated as overvotes. For the limited purpose of voting in a precinct committee officer election, a voter affiliates with a major political party when he or she votes for a candidate of that party.) The method for electing precinct committee officers on party ballots established in~~

chapter 271, Laws of 2004 (the pick-a-party primary), was repealed by chapter 2, Laws of 2005. The method for electing precinct committee officers on a top two primary ballot under chapter 2, Laws of 2005 (the top two primary), was declared unconstitutional by the U.S. District Court for the Western District of Washington in *Washington State Republican Party, et al. v. State of Washington, et al.*, Case No. C05-0927-JCC (January 11, 2011). "The central holding is that the political parties, not the government, are free to define the scope of their membership." Consequently, precinct committee officer elections are no longer conducted by state or county government. As private organizations, the political parties determine how to conduct their internal affairs, including selection of their officers.

NEW SECTION

WAC 434-230-130 Envelopes. Mail-in ballots must be accompanied by the following:

(1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, display the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and conform to postal department regulations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-230-060	Primary votes required for appearance on general election ballot.
WAC 434-230-070	Method for billing expense for printing and distributing ballot materials.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-010 Scope. (1) This chapter implements the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Sec. 1973ff, the Military and Overseas Voter Empowerment Act, 42 U.S.C. Sec. 1973ff, and the provisions for service and overseas voters in Title 29A RCW.

(2) Uniformed service voter is defined in 42 U.S.C. Sec. 1973ff-6(1) as:

(a) A member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(b) A member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; or

(c) A spouse or dependent who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

(3) Service voter is defined in RCW 29A.04.163 as any elector of the state of Washington who:

(a) Is a member of the armed forces under 42 U.S.C. Sec. 1973ff-6 while in active service;

(b) Is a member of a reserve component of the armed forces;

(c) Is a student or member of the faculty at a United States military academy;

(d) Is a member of the merchant marine of the United States; or

(e) Is a member of a religious group or welfare agency officially attached to and serving with the armed forces of the United States.

(4) References in Title 434 WAC to "service voter" include voters who meet either the federal definition for "uniformed service voter" or the state definition for "service voter."

(5) Overseas voter is defined in 42 U.S.C. Sec. 1973ff-6(5) as:

(a) An absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(b) A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(c) A person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

~~((5))~~ (6) Overseas voter is defined in RCW 29A.04.109 as any elector of the state of Washington outside the territorial limits of the United States.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-020 Voter registration. (1) A ~~((uniformed,))~~ service(~~(;))~~ or overseas voter may register to vote by providing:

(a) A voter registration application issued by the state of Washington;

(b) A federal post card application issued by the federal voting assistance program;

(c) A federal write-in absentee ballot issued by the federal voting assistance program;

(d) A national mail voter registration form issued by the election assistance commission; or

(e) ~~((An absentee))~~ A ballot with a valid signature on the ((return envelope oath)) ballot declaration.

(2) Pursuant to RCW 29A.40.010 and 29A.40.091, a ~~((uniformed,))~~ service(~~(;))~~ or overseas voter does not have to be registered in order to request ~~((an absentee))~~ a ballot. Consequently, a ~~((uniformed,))~~ service(~~(;))~~ or overseas voter may request a ballot and be registered after the registration deadlines of RCW 29A.08.140 have passed.

(a) If the voter is not currently registered, the county auditor must register the voter immediately. The voter must be flagged in the voter registration system as a service or overseas voter.

(b) A ~~((uniformed,))~~ service~~(;)~~ or overseas voter must use his or her most recent residential address in Washington, or the most recent residential address in Washington of a family member.

(c) If the county auditor is unable to precinct the voter due to a missing or incomplete residential address on the application, the county auditor must attempt to contact the voter to clarify the application. If, in the judgment of the county auditor, there is insufficient time to correct the application before the next election or primary, the county auditor must issue the ~~((absentee))~~ ballot as if the voter had listed the county auditor's office as his or her residence. A special precinct for this purpose may be created. ~~((Upon its return, the ballot must be referred to the county canvassing board.))~~ The only offices and issues that may be tabulated are those common to the entire county and congressional races based on the precinct encompassing the auditor's office.

(d) A voter who registers to vote by signing the ~~((return envelope of the absentee))~~ ballot declaration is not required to provide a driver's license number, Social Security number or other form of identification as required in RCW 29A.08.-107.

(3) The county auditor must offer a ~~((uniformed,))~~ service~~(;)~~ or overseas voter the option of receiving blank ballots by e-mail or postal mail. This requirement is satisfied if the ~~((uniformed,))~~ service~~(;)~~ or overseas voter registers on an application that offers electronic ballot delivery as an option, or if the voter expresses a preference when registering, updating a registration, or requesting a ballot. The county auditor must attempt to contact the voter by phone, e-mail, postal mail, or other means. If the voter does not indicate a preference or does not respond, the county auditor must send ballots by postal mail.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-030 ((Absentee)) Voting. (1) A ~~((uniformed,))~~ service~~(;)~~ or overseas voter may request or return ~~((an absentee))~~ a ballot by:

(a) Any manner authorized by WAC 434-250-030;

(b) A federal post card application issued by the federal voting assistance program; or

(c) A federal write-in absentee ballot issued by the federal voting assistance program.

(2) ~~((Pursuant to RCW 29A.40.070, absentee ballots issued to registered uniformed, service, or overseas voters must be mailed at least thirty days prior to the election or primary. Requests for absentee ballots received after that day must be processed immediately.~~

~~(3))~~ The county auditor must issue ~~((an absentee))~~ a ballot by mail, e-mail, or fax if specifically requested by the voter. A ballot does not have to be mailed if it is e-mailed or faxed to the voter. If an e-mail is returned as undeliverable and the voter has not provided an alternate e-mail address, then the ballot must be sent by postal mail.

~~((4))~~ (3) Ballot materials must include the mailing address, phone number, fax number, e-mail address, and web site of the county auditor's office to enable a voter to contact the elections office for additional information about the election. Ballot materials must include instructions on how to return the ballot by fax, e-mail, or postal mail, including how to include the ballot privacy sheet between the declaration page and the ballot. Ballot materials must include instructions on how to confirm that the voted ballot has been received by the elections office~~((This information must be provided))~~, in a format that the voter can keep after the voted ballot has been returned.

~~((5))~~ (4) If the county auditor is unable to issue ~~((an absentee))~~ a ballot due to insufficient information, the county auditor must attempt to contact the voter to clarify the request. If the county auditor is unable to obtain sufficient information to issue the ~~((absentee))~~ ballot, the county auditor must attempt to notify the voter of the reason that the ballot was not issued.

~~((6))~~ (5) Pursuant to RCW ~~((29A.40.150))~~ 29A.40.091, return envelopes must be printed to indicate that they may be returned postage-free.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-235-040 Processing ((absentee)) ballots.

(1) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of a federal write-in absentee ballot or a special absentee ballot if the intention of the voter can be ascertained.

(2) For service and overseas voters, the date on the ~~((envelope))~~ ballot declaration associated with the voter's signature~~((, rather than the postmark on the envelope,))~~ determines the validity of the ballot. The signature on the ~~((oath))~~ ballot declaration must be dated no later than election day.

(3) Voted ballots returned by fax or e-mail must ~~((meet the requirements of RCW 29A.40.150 and WAC 434-208-060))~~ be received no later than 8:00 p.m. on election day. The county auditor must apply procedures to protect the secrecy of voted ballots returned by fax or e-mail. Voted ballots returned by e-mail may be returned as multiple attachments or multiple e-mails. In order to maintain the secrecy of the ballot, the county auditor must print the e-mail and attachments. The printed e-mail and declaration page must be processed and retained the same as a ballot declaration. The printed ballot must be processed and retained the same as other ballots. In order to maintain the secrecy of the ballot, the electronic versions of the e-mail, ballot declaration, and ballot are exempt from public disclosure.

(4) The county auditor must provide statistics on voting by ~~((uniformed,))~~ service and overseas voters in the certification report required by RCW 29A.60.235 and in response to requests by the federal election assistance commission.

Chapter 434-250 WAC
 ((VOTING)) ELECTIONS BY MAIL
 ((BALLOTS))
 ((ELECTIONS BY MAIL))

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-250-030 ((Applications.)) Special absentee ballots. (1) ((Each county auditor who does not conduct all elections by mail must provide a form to allow a poll voter to become an ongoing absentee voter. The form must include, but not be limited to, the following:

(a) A space for the voter to print his or her name and the address at which he or she is registered to vote;

(b) The address to which the ballot is to be mailed; and

(c) A space for the voter to sign and date the application.

(2) As authorized by RCW 29A.40.020 and 29A.40.030, requests for a single absentee ballot may be made in person, by telephone, electronically, in writing, or by a family member or registered domestic partner. With the exception of county auditors who conduct primaries and elections entirely by mail, each county auditor must provide applications for requests made in writing. The form must include, but not be limited to, the following:

(a) A space for the voter to print his or her name and the address at which he or she is registered to vote;

(b) The address to which the ballot is to be mailed;

(c) A space for the voter to indicate for which election or elections the application is made; and

(d) A space for the voter to sign and date the application.

(3)) As authorized by RCW 29A.40.050, requests for a special absentee ballot must be made in writing and each county auditor must provide the applications. ((In addition to the requirements for a single absentee ballot, as provided in subsection (2) of this section,)) The form must include:

(a) A space for the voter to print his or her name and address where registered to vote;

(b) A postal or mailing address;

(c) A space for an overseas or service voter not registered to vote in Washington to indicate his or her last residential address in Washington; ((and

(b)) (d) A checkbox indicating that the voter will be unable to vote and return a regular ballot by normal delivery within the period provided for regular ballots; and

(e) A checkbox requesting that a ((single absentee)) regular ballot be forwarded as soon as possible.

(2) The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section. Any application for a special absentee ballot received more than ninety days prior to a primary or general election may be either returned to the applicant with the explanation that the request is premature or held by the auditor until the appropriate time and then processed.

((4) As authorized by RCW 29A.40.080, requests for an absentee ballot may be made by a resident of a health care facility, as defined by RCW 70.37.020(3). Each county shall

~~provide an application form for such a registered voter to apply for a single absentee ballot by messenger on election day. The messenger may pick up the voter's absentee ballot and deliver it to the voter and return it to the county auditor's office.)) (3) Upon receipt of a special absentee ballot request, a regular ballot is mailed if available. If regular ballots are not available, the county auditor shall immediately send a special absentee ballot containing the known offices and measures scheduled to appear on the ballot; space for the voter to write in the name of any eligible candidate for each office and vote on any measure; and a list of any candidates who have filed and issues referred to the ballot.~~

(4) If a regular ballot is returned, the special ballot is not counted.

(5) Write-in votes on special ballots are counted in the same manner as other write-in votes.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-250-035 Protected records voters. (1) At least ((twenty)) eighteen days before every special, primary, or general election, authorized personnel shall review all protected records voter files and forward the appropriate ((absentee)) ballot for each protected records voter via the substitute mailing address.

(2) The ballot, ballot security envelope, and return envelope must be placed in an envelope addressed to the substitute address. The return envelope shall be ((printed)) marked in a manner that ensures that the returned ballot will be segregated and routed to the authorized personnel for processing.

(3) The voted ((absentee)) ballot for a protected records voter shall be processed by county authorized personnel. The authorized personnel shall maintain a record of ballots sent to protected records voters and a record of ballots returned. This record shall be maintained in accordance with WAC 434-324-034.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-250-045 Voters requiring verification of identity. (1) If the voter registration record ((of an absentee voter)) is flagged as requiring verification of identity, a notice must be sent at the time of the election explaining that a photocopy of identification must be provided in order for the ballot to be counted, and listing what forms of identification are acceptable. The county auditor may provide an inner envelope separate from the security envelope for return of the photocopy of the identification.

(2) The notice to the ((absentee)) voter must be in substantially the following form:

Dear Voter:

[date]

Based on your recent registration, federal law requires that you provide identification with your ballot. **If you fail to provide identification, your ballot will not be counted.**

Please provide your driver's license number, Washington state identification card number, the last four digits of your Social Security number, or a ((copy)) photocopy of one of the following:

- Valid photo identification;
- A valid enrollment card of a federally recognized tribe in Washington;
- A current utility bill;
- A current bank statement;
- A current government check;
- A current paycheck; or
- A government document, other than a voter registration card, that shows both your name and address.

You may return ~~((the))~~ a photocopy with your ballot but, in order to protect the secrecy of your ballot, do not place the photocopy inside the security envelope.

If you do not provide a copy of your identification, your ballot will not be counted.

If you have any questions, please feel free to contact the _____ County Auditor's Office at _____.

(3) If the voter provides one of the acceptable forms of identification no later than the day before certification of the election, the flag on the voter registration record must be removed and the ballot must be counted.

(4) If the voter fails to provide one of the acceptable forms of identification by the day prior to certification of the election, the ballot shall not be counted. If the voter provides one of the acceptable forms of identification at a later date, the ballot cast in that election shall not be counted but the flag on the voter registration record must be removed.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

WAC 434-250-070 Forwarding ballots. (1) If the county auditor chooses to forward ballots (~~((as authorized by RCW 29A.40.091))~~), the county auditor must utilize postal service endorsements that allow the ballots to be forwarded, allow the county auditor to receive the updated address information, and allow the return of ballots not capable of being forwarded. A voter may only vote a ballot specific to the address where he or she is registered to vote, rather than a ballot specific to a new address. ~~((The county auditor must include instructions substantially similar to the following:~~

~~If you have changed your permanent residence address, please contact your county auditor to ensure the ballot you receive in future elections contains the races and issues for your residential address. If you have any questions about your eligibility to vote in this election, please contact your county auditor.))~~

(2) If the county auditor does not forward ballots, the envelope must clearly indicate the ballot is not to be forwarded and is to be returned to the county auditor with any available address updates. If the county auditor receives updated address information from the post office, the county auditor may send the voter a ballot specific to the address where the voter is registered to vote.

(3) If a ballot is returned or forwarded, the county auditor must, following certification of the election, either:

(a) Transfer the voter registration and send the voter an acknowledgment notice, if the updated address is within the county; or

(b) Place the voter on inactive status and send the voter a confirmation notice to all known addresses, if no updated address information was received or the updated address is outside the county.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-080 Replacement ballots. The county auditor may issue a replacement ballot, as authorized by RCW ~~((29A.40.061))~~ 29A.40.070, if the request is received prior to 8:00 p.m. on election day. Requests may be made in person, in writing, by telephone, or electronically, by the voter, a family member, or a registered domestic partner.

Replacement ballots or the original ballot, whichever is received first, shall be credited to the voter's registration file and tabulated if the ballot meets all requirements for tabulation. If the auditor receives additional ballots from a voter, as indicated by the fact that the voter is already credited with voting, the additional ballots shall not be counted and shall be forwarded to the county canvassing board for rejection.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-250-095 (~~(Voting on)~~ Direct recording electronic voting devices. (1) If a voter (~~(who was issued an absentee or mail ballot)~~) requests to vote on a direct recording electronic voting device, the county auditor must first confirm that the voter has not already returned a voted ballot. Confirmation that the voter has not already returned a voted ballot may be achieved by accessing the county voter registration system by electronic, telephonic, or other means. If the county auditor is unable to confirm that the voter has not already returned a voted ballot, the voter may not vote on a direct recording electronic voting device.

~~((Consistent with RCW 29A.46.110,))~~ In order to prevent multiple voting, the voter must be immediately credited or otherwise flagged as having voted. If a voter (~~(absentee or)~~) mail ballot is subsequently returned after a ballot is cast on the direct recording electronic voting device, the (~~(absentee or)~~) mail ballot must not be counted.

(2) Before a direct recording electronic voting device may be used by a voter, an election officer must verify:

(a) The paper printer or paper canister is secured so that the paper record may not be removed from the device by anyone other than an election officer:

(b) Only a blank portion of the paper record is visible to the voter as he or she approaches the device; and

(c) The paper printer or paper canister is sealed with a numbered seal to ensure the paper tape cannot be removed by the voter.

(3)(a) If a ballot on a direct recording electronic device has not been cast but has been printed by the voter, the election officer may cast the ballot.

(b) If a ballot on a direct recording electronic device has not been printed nor cast by the voter, the election officer must cancel the ballot and make a corresponding notation in the accountability form.

(4) If any seal or lock on a direct recording electronic device, including seals for the paper printer or paper canister, has been broken or tampered with, the direct recording electronic device and paper printer must be removed from service for the remainder of the election. A written report regarding the circumstances of the removal from service must be sent to the county canvassing board.

(5) If the paper printer for a direct recording electronic device malfunctions or runs out of paper, the following must occur:

(a) If the election officer has confirmed that no ballots have been cast after the printer ran out of paper or malfunctioned, he or she must remove the direct recording electronic device and paper printer from service, and document the problem. The direct recording electronic device and paper printer may be returned to service only if the problem has been corrected.

(b) If the election officer is unable to confirm that no ballots were cast after the printer ran out of paper or malfunctioned, or if the problem cannot be corrected, the direct recording electronic device and paper printer must be removed from service for the remainder of the election. The auditor must present a written report regarding the circum-

stances of the removal from service to the county canvassing board.

(6) If an electronic ballot has been cast without a readable corresponding paper record, the county auditor may print the ballot image stored on the device for use as a paper record for that device, in the case of an audit or manual recount. This may require printing all ballot images from that machine.

(7) A provisional ballot may only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state.

(8)(a) If a direct recording electronic voting device must be transferred from a voting center that is not in the same location as the counting center, the paper records must be either:

(i) Placed in transfer containers; or

(ii) Transferred in the paper printer or paper canister if the paper printer or paper canister is sealed so the paper record cannot be removed without breaking the seal.

(b) Paper records must be accompanied by a transmittal sheet which must include at a minimum:

(i) The voting center where the direct recording electronic device was utilized;

(ii) The seal number from the paper printer; and

(iii) The serial number or other identifier of the direct recording electronic device if distinctly unique from the seal number on the paper record printer or paper canister.

(c) If paper records are placed in a transfer container, the election officer must sign the transmittal sheet and place it in the transfer container. The number of paper record tapes included in the container must be recorded on the transmittal sheet. A unique prenumbered seal must be applied to the container.

(d) The data pack or cartridge of the direct recording device must be transported to the counting center in a sealed container.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-250-100 Ballot deposit sites (~~(and voting centers)~~). (1) If a location only receives ballots and does not issue any ballots, it is considered a ballot deposit site. Ballot deposit sites may be staffed or unstaffed.

(a) If a ballot deposit site is staffed, it must be staffed by at least two people. Deposit site staff may be employees of the county auditor's office or persons appointed by the auditor. If a deposit site is staffed by two or more persons appointed by the county auditor, the appointees shall be representatives of different major political parties whenever possible. Deposit site staff shall subscribe to an oath regarding the discharge of their duties. Staffed deposit sites open on election day must be open (~~(from 7:00 a.m.)~~) until 8:00 p.m. Staffed deposit sites may be open (~~(prior to the election)~~) according to dates and times established by the county auditor. Staffed deposit sites must have a secure ballot box that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the

deposit site staff. If a ballot envelope is returned after 8:00 p.m. on election day, deposit site staff must note the time and place ~~((of deposit on the ballot envelope,))~~ and ~~((such ballots must be referred))~~ refer the ballot to the canvassing board.

(b) Unstaffed ballot deposit sites consist of secured ballot boxes that allow return envelopes, once deposited, to only be removed by authorized staff. Ballot boxes located outdoors must be constructed of durable material able to withstand inclement weather, and be sufficiently secured to the ground or another structure to prevent their removal. From eighteen days prior to election day until 8:00 p.m. on election day, two people who are either employees of or appointed by the county auditor must empty each ballot box with sufficient frequency to prevent damage and unauthorized access to the ballots.

~~(2) ((If a location offers replacement ballots, provisional ballots, or voting on a direct recording electronic device, it is considered a voting center. The requirements for staffed ballot deposit sites apply to voting centers. Each voting center must:~~

~~(a) Be posted according to standard public notice procedures;~~

~~(b) Be an accessible location consistent with chapters 29A.16 RCW and 434.257 WAC;~~

~~(c) Be marked with signage outside the building indicating the location as a place for voting;~~

~~(d) Offer disability access voting in a location or manner that provides for voter privacy;~~

~~(e) Offer provisional ballots, which may be sample ballots that meet provisional ballot requirements;~~

~~(f) Require each voter who votes on a direct recording electronic voting device to sign and date the following oath, and record the information in such a manner that the ballot cannot be traced back to the voter:~~

~~I do solemnly swear or affirm under penalty of perjury that I am:~~

~~A citizen of the United States;~~

~~A legal resident of the state of Washington;~~

~~At least eighteen years old on election day;~~

~~Voting only once in this election;~~

~~Not ineligible to vote due to a felony conviction; and~~

~~Not disqualified from voting due to a court order.~~

~~It is illegal to forge a signature or cast a ballot in another person's name. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of ten thousand dollars, or both.~~

~~(g) Request identification, consistent with RCW 29A.44.205 and WAC 434.253-024, from each voter voting on a direct recording electronic voting device or voting a provisional ballot;~~

~~(h) Issue a provisional ballot to each voter who is unable to provide identification in accordance with (g) of this subsection;~~

~~(i) Have electronic or telephonic access to the voter registration system consistent with WAC 434.250-095 if voters are voting on a direct recording electronic voting device;~~

~~(j) Provide either a voters' pamphlet or sample ballots;~~

~~(k) Provide voter registration forms;~~

~~(l) Display a HAVA voter information poster;~~

~~(m) Display the date of that election;~~

~~(n) Provide instructions on how to properly mark the ballot;~~

~~(o) Provide election materials in alternative languages if required by the Voting Rights Act; and~~

~~(p) Use an accountability form to account for all ballots issued.~~

~~(3))~~ Ballot boxes must be secured at all times, with seal logs that document each time the box is opened and by whom. Ballots must be placed into secured transport carriers and returned to the county auditor's office or another designated location. At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots.

NEW SECTION

WAC 434-250-105 Voting centers. (1) If a location offers replacement ballots, provisional ballots, or voting on a direct recording electronic device, it is considered a voting center. The requirements for staffed ballot deposit sites apply to voting centers. Each voting center must:

(a) Be an accessible location. "Accessible" means the combination of factors which create an environment free of barriers to the mobility or functioning of voters. The environment consists of the routes of travel to and through the buildings or facilities used for voting. The Americans with Disabilities Act Checklist for Polling Places shall be used when determining the accessibility of a voting center. A voting center is fully accessible if all responses in each category are "Yes";

(b) Be marked with signage outside the building indicating the location as a place for voting;

(c) Issue ballots that include a declaration in the ballot materials;

(d) Offer disability access voting in a location or manner that provides for voter privacy. For each voting center, the county auditor must have a contingency plan to accommodate accessible voting in the event that an accessible voting unit malfunctions or must be removed from service;

(e) Offer provisional ballots, which may be sample ballots that meet provisional ballot requirements;

(f) For voters voting on a direct recording electronic voting device, require the voter to provide photo identification, consistent with chapter 10, Laws of 2011, section 43(7), and to sign and date the declaration in WAC 434-230-015. The county auditor is not required to compare the signature on the declaration to the signature in the voter registration record if the voter provided identification. To prevent double voting, the voting center must have electronic or telephonic access to the voter registration system, consistent with WAC 434-250-095;

(g) Provide either a voters' pamphlet or sample ballots;

(h) Provide voter registration forms;

(i) Display a HAVA voter information poster;

(j) Display the date of that election;

(k) During a primary that includes a partisan office, display the notice provided in WAC 434-230-015 (3)(j), and during a general election that includes a partisan office, display the notice provided in WAC 434-230-015 (3)(k). The

party preference notices may also be posted on-screen in direct recording electronic voting devices;

(l) Provide instructions on how to properly mark the ballot; and

(m) Provide election materials in alternative languages if required by the Voting Rights Act.

(2) Where it appears that a particular voter is having difficulty casting his/her vote, and as a result, is impeding other voters from voting, the staff may provide assistance to that voter in the same manner as provided by law for those voters who request assistance. Where it appears that a voter is impeding other voters from voting to simply cause delay, the staff shall ask the voter to expedite the voting process. In the event the voter refuses to cooperate, the staff shall, whenever practical, contact the county auditor, who may request assistance from the appropriate law enforcement agencies if he or she deems such action necessary.

(3) At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots. Voted ballots, including provisional, mail-in, and direct recording electronic and paper records, must be placed into secured transport carriers for return to the county auditor's office or another designated location.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

WAC 434-250-110 Processing (~~of absentee~~) ballots.

(1) "Initial processing" means all steps taken to prepare ballots for tabulation. Initial processing includes, but is not limited to: Verification of the signature and postmark on the ballot declaration; removal of the security envelope from the return envelope; removal of the ballot from the security envelope; manual inspection for damage, write-in votes, and incorrect or incomplete marks; duplication of damaged and write-in ballots; scanning and resolution of ballots on a digital scan voting system; and other preparation of ballots for final processing.

(2) "Final processing" means the reading of ballots by an electronic vote tallying system for the purpose of producing returns of votes cast, but does not include tabulation.

(3) "Tabulation" means the production of returns of votes cast for candidates or ballot measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals.

(4) Prior to initial processing of ballots, the county auditor shall notify the county chair of each major political party of the time and date on which (~~absentee~~) processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of (~~absentee~~) ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of (~~absentee~~) ballots.

~~((2) In counties tabulating absentee ballots on an electronic vote tallying system, the canvassing board or its representatives may perform))~~ (5) Initial processing of (~~absentee~~) voted ballots (~~upon their return~~), which may include scanning and resolving ballots on a digital scan voting system,

may begin as soon as voted ballots are received. All (~~absentee~~) ballots must be kept in secure storage until final processing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unauthorized access to the secured ballot materials when they are not being prepared or processed by authorized personnel. The county auditor must ensure that all security envelopes and return envelopes are empty, either by a visual inspection of the punched hole to confirm that no ballots or other materials are still in the envelopes, or by storing the envelopes with a tie, string, or other object through the holes.

~~((3))~~ (6) Final processing of voted ballots, which may include scanning ballots on an optical scan voting system, may begin after 7:00 a.m. on the day of the election. Final processing may begin after 7:00 a.m. the day before the election if the county auditor has submitted an approved security plan to the secretary of state that prevents tabulation until after 8:00 p.m. on the day of the election.

~~((4))~~ (7) Tabulation may begin after 8:00 p.m. on the day of the election.

~~((5))~~ (8) In counties tabulating ballots on an optical scan vote tallying system, the vote tallying system must reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) If inspection reveals that a ballot must be duplicated in order to be read correctly by the vote tallying system, the ballot must be duplicated.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-250-120 Verification of the signature and (~~postmark on ballots~~) return date. (1) A ballot shall be counted only if:

(a) ~~((It is returned in the return envelope, or a similar envelope if it contains the same information;~~

~~(b))~~ The (~~affidavit~~) ballot declaration is signed with a valid signature (~~in the place afforded for the signature on the envelope~~);

~~((c))~~ (b) The signature has been verified pursuant to WAC 434-379-020, or if the voter is unable to sign his or her name, two other persons have witnessed the voter's mark; and

~~((d))~~ (c)(i) The envelope is postmarked not later than the day of the election (~~or deposited in the auditor's office, a polling location, or a designated deposit site not later than 8:00 p.m. on election day; and~~

~~(e) The ballot is received prior to certification of the election))~~ and received not later than the day before certification of the election;

(ii) The ballot is deposited in a ballot drop box no later than 8:00 p.m. on election day; or

(iii) The ballot of a service or overseas voter received by fax or e-mail is received no later than 8:00 p.m. on election day.

(2) Postage that includes a date, such as meter postage or a dated stamp, does not qualify as a postmark. If an envelope lacks a postmark or if the postmark is unreadable, the date to which the voter has attested on the ~~((oath))~~ ballot declaration determines the validity of the ballot, per RCW 29A.40.110. If a ballot is from a service or overseas voter, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.100.

(3) The signature on the ~~((return envelope, or on a copy of the return envelope,))~~ ballot declaration must be compared with the signature in the voter's voter registration file using the standards established in WAC 434-379-020. The signature on a ~~((return envelope))~~ ballot declaration may not be rejected merely because the name in the signature is a variation of the name on the voter registration record. The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of his or her duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries.

(4) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-250-130 Maintenance of an audit trail.

Each county auditor shall maintain an audit trail with respect to the processing of ~~((absentee))~~ ballots, which shall include, but not be limited to, the following:

(1) A record of ~~((the date each absentee ballot application was received,))~~ the date the ballot was mailed or issued, and the date the ballot was received;

(2) The number of ~~((absentee))~~ ballots issued and returned, by legislative and congressional district, for each primary and general election;

(3) A record of the disposition of each request for ~~((an absentee))~~ a ballot that was not honored;

(4) A record of the disposition of each returned ~~((absentee))~~ ballot that was not counted;

(5) A record of the time and place each time the county canvassing board met; and

(6) ~~((A))~~ Documentation of the security procedures undertaken to protect the integrity of all ballots after receipt, including the seal numbers used to secure the ballots during all facets of the ~~((absentee ballot))~~ process.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-250-140 Ballot process to be expedited. All election officials charged with any duties or responsibilities with respect to ~~((absentee))~~ ballots shall ensure that those

duties are performed in an expeditious manner, in order to maximize the opportunity for voters to receive, vote, and return the ballots in time to be counted.

AMENDATORY SECTION (Amending WSR 07-20-074, filed 10/1/07, effective 11/1/07)

WAC 434-250-320 ~~((Ballot deposit sites and voting centers in mail elections.))~~ Locations to deposit ballots. A county auditor ~~((conducting a county-wide election entirely by mail))~~ must provide at least two locations to deposit ballots. These locations may be either a ballot deposit site, as defined in WAC 434-250-100, or a voting center, as defined in WAC ~~((434-250-100))~~ 434-250-105. At least one location may be at the county auditor's office. All other deposit sites must be at geographical locations that are different from the county auditor's office.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-250-010	Purpose.
WAC 434-250-020	Definitions.
WAC 434-250-040	Instructions to voters.
WAC 434-250-050	Envelopes.
WAC 434-250-085	Provisional ballots issued before election day.
WAC 434-250-090	Absentee ballots issued after the poll lists have been marked.
WAC 434-250-300	Elections by mail.
WAC 434-250-310	Notice of elections by mail.
WAC 434-250-330	County auditor's office as a voting center.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-020 Definitions. As used in this chapter:

(1) "Election review" means the process of examining all or a part of a county's election policies and procedures and includes the review of any documentation of those procedures;

(2) "Election review staff" means the person or persons employed by the secretary of state for the purpose of conducting election reviews;

(3) "Special election review" means an election review conducted in a county or counties whenever the unofficial returns of a primary or election indicate that a mandatory recount is likely in a race for the state legislature, congress, or statewide office;

(4) "Preliminary review report of findings and recommendations" means that draft report made by the election review staff to the county auditor and which contains any rec-

ommendations made by the review staff and a preliminary conclusion regarding the county's election procedures;

(5) "Draft election review report" means that report made by the election review staff to the county auditor and the designated members of the county canvassing board. The auditor and/or county canvassing board must respond to the draft election review report in writing and may appeal the report to the election administration and certification board;

(6) "Final election review report" means that report made by the election review staff which contains a copy of the recommendations made by the review staff, the response to those recommendations made by the county auditor or the county canvassing board, and a conclusion written by the staff;

(7) "Special review recommendations" means recommendations made by the review staff to the county auditor and the county canvassing board following the conduct of any special review;

(8) "County auditor designee" is that person designated by the county auditor to participate in the review process, pursuant to the provisions of RCW 29A.04.580. Such a designee must be certified as required by chapter 29A.04 RCW.

(9) "Election administrator" means the person or persons appointed by the county auditor to election management positions as required by RCW 36.22.220 and the state director of elections, assistant directors of elections, certification and training program staff members, and any other secretary of state election division employees designated by the director of elections;

(10) "Assistant election administrator" means any person involved in the administration of elections at the state or county level who has been designated as an assistant election administrator by the state director of elections or the county auditor as applicable;

(11) "County canvassing board members" means those officers designated as such pursuant to the provision of chapter 29A.60 RCW;

(12) "Election administration and certification board" means that board created pursuant to the provisions of RCW 29A.04.510(;

(13) "~~Creditable training hours" means each creditable training hour contemplated in WAC 434-260-230 and shall consist of a minimum of fifty minutes of instructional activity programmed for the purpose of mastering information beneficial to the performance of the duties of administering elections).~~

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-040 Election reviews—Secretary of state to designate. Not later than ~~((May 15))~~ thirty days prior to the start of an election review the secretary of state shall notify, in writing, the counties selected for an election review ~~((and the chairs of the state committees of any major political party)).~~ Whenever possible, election reviews shall be conducted on dates that are mutually agreeable to the secretary and to the county auditor ~~((; except that those parts of the review process dealing with the actual conduct and canvassing of the election itself must be conducted between election~~

~~day and the certification of the election returns))~~ allowing the reviewer to observe all election procedures. In designating counties to be reviewed, the secretary shall take into consideration any complaints filed with his or her office pursuant to the provisions of RCW 29A.04.570 (1)(b).

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-260-050 Notice of special review. Notice of a special review shall be provided to the county auditor ~~((and the political party chairs,))~~ by telephone and ~~((by electronic facsimile transmission,))~~ e-mail not later than twenty-four hours after the determination has been made to conduct the special review.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-110 Election review checklist. The secretary of state shall develop an election review checklist, which shall be the basis for any election review and which shall also serve, in whole or in part, as the basis for any special review. The checklist for a regular review shall be provided to the county auditor at least one week prior to the beginning of the reviews. ~~((A checklist shall be provided to the chairs of the state central committees of each major political party at least once per year.))~~

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-130 Preliminary review report of findings and recommendations. The review staff shall verbally relay any recommendations found during observation of the county's procedures by certification of the election. As soon as practical, but in any event not later than ~~((sixty))~~ ninety days following the certification of the election, the review staff shall issue a preliminary review report of a findings and recommendations. The report shall be made to the county auditor.

The preliminary review report of findings and recommendations is exempt from public inspection and copying, as provided by RCW ~~((42.17.310))~~ 42.56.280.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-150 Final election review report. As soon as practicable, but in any event not later than ~~((thirty))~~ ten business days after the ~~((issuance of the draft election review report))~~ receipt of the county's response, the review staff shall issue a final election review report. The report shall be made to the county canvassing board, and shall include, but not be limited to, the following:

(1) A narrative description of any general observations by the review staff;

(2) A narrative description of any recommendations made by the review staff;

(3) A response by the county auditor or the county canvassing board;

(4) A conclusion by the review staff.

A copy of the final review report shall be provided to the chairperson of the election administration and certification board and a copy shall also be kept on file by the secretary of state.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-260-155 County review follow-up. Within one year following the issuance of the final review report, the secretary of state shall verify that the county has taken the steps listed in the response to correct the problems noted in the report. ~~((If steps have not been taken,))~~ The secretary of state shall send a letter to the county canvassing board listing the ~~((areas needing correction))~~ results of the follow-up interview. A copy of the letter shall be provided to the county auditor and kept on file with the secretary of state.

AMENDATORY SECTION (Amending WSR 06-18-103, filed 9/6/06, effective 10/7/06)

WAC 434-260-220 Certification of election administrators. Election administrators shall become certified upon completion of the following:

(1) Completion of the secretary of state's mandatory orientation course;

(2) Two years of service during the three-year period immediately prior to the request for initial certification;

(3) Taking and passing the open book written test described in WAC 434-260-260;

(4) A minimum of forty hours participation in conferences and workshops ~~((involving elections related subjects or subjects approved by the election administration and certification board and sponsored))~~ provided by:

(a) The Washington Association of County Auditors;

(b) The secretary of state;

(c) The elections center;

(d) ~~((Visiting other county election departments for training and/or orientation purposes (maximum four hours);~~

~~(e) The Federal Election Commission;~~

~~(f) Other national associations related to elections or government administration, approved by the Election Administration and Certification Board; or~~

~~(g) Other conferences or courses approved by the Election Administration and Certification Board.~~

~~Such))~~ The United States Election Assistance Commission;

(e) The Federal Voting Assistance Program; or

(f) Other conferences or courses related to election administration or government administration approved by the Election Administration and Certification Board.

Election administrators may also claim up to four hours of training credit for training received while visiting other county election departments.

All training shall be received not more than five years prior to the date of a request for initial certification and shall include at least thirty hours of election-specific training.

(5) A high school diploma or its equivalent.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed ~~((on an absentee ballot))~~ as part of the initial processing ~~((and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election));~~

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of voter intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" on a ballot ~~((envelope))~~ declaration for a registered voter eligible to vote in the election is:

(a) A signature verified against the signature in the voter registration file; or

(b) A mark witnessed by two people.

(6) "Overvote" is votes cast for more than the permissible number of selections allowed in a race or measure. An overvoted race or measure does not count in the final tally of that race or measure. Example of an overvote would be voting for two candidates in a single race with the instruction, "vote for one."

(7) "Undervote" is no selections made for a race or measure.

(8) "Election observers" means those persons designated by the county political party central committee chairperson to observe the counting of ballots and related elections procedures.

(9) "Seal log" is a log documenting each time a numbered seal is attached or removed from a ballot container. The log must include the seal number, date, and identifying information of persons attaching or removing the seal. Following certification of the election, the seal log must include documentation as to why the seal was removed from a ballot container.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-010 Counting center location—Direction of proceedings. ~~((In counties using voting devices and vote tallying systems where the ballots are to be processed and/or tabulated at a location other than the precinct,))~~ The county auditor shall designate a location to serve as the

counting center. If that location is other than the ~~((court-house))~~ county auditor's office or county election office, the auditor shall include the location of the counting center in the published notice of elections. The county auditor shall be responsible for all counting center functions. Within the counting center, no person except those authorized by the county auditor may touch any ballot or ballot container, or operate a vote tallying system. The auditor shall identify either by roster or identification tag, or both, those persons so authorized. The vote tallying process shall be open to the public to the extent that public observation does not interfere with the proceedings or jeopardize the security of the ballots. The auditor shall establish local administrative rules pertaining to public observers including the media and how they may be accommodated and the necessary limitations thereto.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-261-020 ~~((Counting center—))~~ Political party observers. Counting center operations shall be observed by at least one representative from each political party, if representatives have been appointed by the respective political parties and those representatives are present while the counting center is in operation.

Prior to the primary or election, the county auditor shall determine the number of observers required in order to observe all aspects of the counting center proceedings, and shall request, in writing, that each major political party appoint representatives to fill the requirements. Where more than one observer is to be appointed, the political party shall designate one of their observers as supervisor. ~~((Counting center))~~ The county auditor may require observers ~~((shall be provided))~~ to receive training with respect to ballot processing procedures and the vote tallying system ~~((as required by RCW 29A.12.120))~~.

Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the substitute observer is trained ~~((as provided in subsection (2) of this section))~~.

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

WAC 434-261-050 Unsigned ~~((oath))~~ ballot declaration or mismatched signatures. (1) If a voter neglects to sign ~~((the oath on an absentee or provisional ballot envelope))~~ a ballot declaration, signs ~~((the oath))~~ with a mark and fails to have two witnesses attest to the signature, or signs ~~((the ballot envelope))~~ but the signature on the ~~((envelope))~~ ballot declaration does not match the signature on the voter registration record, the auditor shall notify the voter by first

class mail of the correct procedures for curing the signature. If the ballot is received during the last three business days before the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded by the last three business days before the final meeting of the canvassing board, the auditor must attempt to notify the voter by telephone using information in the voter registration record.

(2) If the voter neglects to sign ~~((the oath on an absentee or provisional ballot envelope;))~~ or signs ~~((the oath))~~ with a mark and fails to have two witnesses attest to the signature, the voter must either:

(a) Appear in person and sign the ~~((affidavit))~~ declaration no later than the day before certification of the primary or election; or

(b) Sign a copy of the ~~((affidavit))~~ declaration provided by the auditor, or mark the ~~((affidavit))~~ declaration in front of two witnesses, and return it to the auditor no later than the day before certification of the primary or election.

(3) If the signature on the ~~((oath of an absentee or provisional ballot envelope))~~ declaration does not match the signature on the voter registration record, the voter must either:

(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; or

(b) Sign a copy of the ~~((affidavit))~~ declaration provided by the auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature. The signature on the ~~((affidavit))~~ copy of the declaration must match the signature on the identification, and both of those signatures must match the signature on the ballot ~~((envelope))~~ declaration. The voter must return the signed ~~((affidavit))~~ declaration and identification to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or

(c) Sign a copy of the ~~((affidavit))~~ declaration provided by the auditor in front of two witnesses who attest to the signature. The signature on the ~~((affidavit))~~ copy of the declaration must match the signature on the ballot ~~((envelope))~~ declaration. The voter must return the signed ~~((affidavit))~~ declaration to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections.

(4) If the signature on ~~((an absentee or provisional ballot envelope))~~ the declaration does not match the signature on the registration record because the name is different, the ballot may be counted as long as the handwriting is clearly the same. If it appears that the voter has changed his or her name, and the information required under RCW 29A.08.440 to complete a name change is not provided or is illegible, the auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form. If the signature on ~~((an absentee or provisional ballot envelope))~~ a ballot declaration does not match the signature on the registration record because the voter used initials or a com-

mon nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(5) If the name on the signature does not match the printed name (~~(printed on the absentee ballot envelope)~~), and the signature on the (absentee) ballot (envelope) declaration does not match the signature on the voter registration record, because the ballot was signed by another registered voter, the ballot may be counted for the registered voter who actually signed the (envelope) ballot declaration if:

(a) The voter who signed the (envelope) declaration can be identified;

(b) ~~((The voter who signed the envelope is registered at the same address as the voter to whom the envelope was issued;~~

~~(c))~~ The signature on the (envelope) declaration matches the signature on the voter registration record; and

~~((d))~~ (c) The voter who signed the (envelope) declaration has not returned another ballot.

The county auditor may only count the races and measures for which the voter who signed the declaration is eligible to vote.

(6) If it is determined that the signature on a ballot declaration does not match the signature on the registration record and, prior to 8:00 p.m. on election day, the registered voter asserts that the signature on the ballot declaration is not his or her signature, the voter may be provided the opportunity to vote a replacement ballot.

(7) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

~~((7))~~ (8) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter ~~((signed the envelope, a copy of the envelope, a new registration form, or a change of name form))~~ subsequently submitted a signature to cure the missing or mismatched signature. That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-261-055 Returned ballot lacking verification of identity. If a voter who is provisionally registered and must still verify his or her identity as part of the registration process ~~((votes an absentee or provisional))~~ casts a ballot without providing adequate identification, the ballot cannot be counted unless the voter provides adequate identification no later than the day before certification of the election.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-261-070 Manual inspection of ballots. (1) ~~((Upon receiving absentee ballots and upon breaking the seals and opening the ballot containers from the precincts,))~~ All voting positions on voted ballots shall be manually inspected on both sides of the ballot to determine whether the ballot is readable by the vote tabulating system. This manual inspection is a required part of processing ballots.

(2) ~~((The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW 29A.44.340 are in effect.~~

~~(3))~~ If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or marks that differ from those specified in the voting instructions, the county auditor shall refer such ballots to the county canvassing board to be counted according to the statewide standards on what is a vote, as provided in WAC 434-261-086. The county canvassing board shall make the final determination of voter intent for ballots not addressed in the statewide standards on what is a vote.

~~((4))~~ (3) The county canvassing board may delegate duplication of the ballots consistent with RCW 29A.60.140.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-261-075 Votes on something other than a ballot. If the voter returns voting responses by mail on any form other than ~~((the))~~ a ballot ~~((sent))~~, the votes thereon shall be acceptable and tallied provided that:

(1) Only votes for offices or measures for which the voter is eligible are counted.

(2) The candidate or measure response position for which the voter is voting can be clearly identified.

(3) The ballot issued is not returned, or if returned, contains no marks indicating an attempt to vote it.

(4) A valid signature on ~~((an absentee oath))~~ a ballot declaration is received with the voting responses.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-261-102 Resolving ballots on digital scan vote tallying systems. In counties tabulating ballots on a digital scan vote tallying system, two staff designated by the auditor's office must resolve ballots identified as requiring resolution. A log of the resolutions must be printed ~~((and))~~ linking staff conducting the resolutions to the ballots resolved. The log must be signed by the two staff.

NEW SECTION

WAC 434-261-106 Manual counting of ballots. Procedures for manual counting of ballots shall be substantially the same as a manual recount according to chapter 434-264 WAC.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-261-110 Election results anomalies. Precinct results, showing overvotes and undervotes, shall be inspected by the county canvassing board, or their designees, for anomalies that may indicate problems with the hardware or programming used to tabulate the votes. Anomalies may include, but are not limited to, an abnormal number of over-

votes, undervotes, vote distribution, and voter turnout in any precinct, race, or jurisdiction. This inspection shall be completed within two days of the election.

Additionally, these results shall be used in the reconciliation process required in ~~((WAC 434-253-165 and))~~ RCW 29A.60.235.

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-261-120 Referral of questionable ballots to canvassing board. Whenever ~~((a precinct election officer or))~~ counting center personnel has a question about the validity of a ballot or the votes contained on the ballot that they are unable to resolve, the ballot shall be ~~((placed in a special container marked "for canvassing board."))~~ forwarded to the canvassing board for review. The facts giving rise to the question of validity must be noted.

~~((If the question arises at a polling place, the precinct inspector shall note the ballot on the ballot accountability form in a manner similar to recording other irregularly voted ballots and shall transfer it to the elections office in accordance with WAC 434-253-170.~~

~~If the question arises in the counting center, the counting center supervisor shall record the ballot on an irregularly voted ballot log sheet.)~~

Ballots being held for determination of validity or voter's intent shall be provided the same security as regular voted ballots and shall be kept in a secure area when not being processed.

NEW SECTION

WAC 434-261-125 Free access system for provisional ballots. (1) Each county shall establish a free access system, as required by the Help America Vote Act, 42 U.S.C. sec. 15482 (a)(5), and RCW 29A.60.195 for provisional ballot voters.

(2) The free access system must employ measures to ensure that access is free of cost to the voter and restricted to the individual who cast the ballot, and that the voter's personal information is secure and confidential.

(3) For provisional ballots sent to other counties in the state, the free access system must provide the voter with information as to where the ballot was sent and how to find out if the ballot was counted in that county.

(4) For ballots received from another county, the free access system must provide the voter with information as to whether the ballot was counted and, if not, why. The county may send instructions to the voter on how to access the information.

(5) Provisional ballot disposition information must be available on a county's free access system no later than one week following certification of the election.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-261-030	Receipt of ballots at intermediate collection station.
WAC 434-261-040	Receipt of ballots at the counting center.
WAC 434-261-105	Tabulation of ballots to be continuous—Exception.

AMENDATORY SECTION (Amending WSR 06-14-046, filed 6/28/06, effective 7/29/06)

WAC 434-262-010 Definitions. As used in these regulations:

(1) "Canvassing" is that process of examining in detail a ballot, groups of ballots, election subtotals, or grand totals, in order to determine the final official returns of a primary, special, or general election, and to safeguard the integrity of the election process.

(2) "County canvassing board" is that body charged by law with the duty of canvassing ballots, ~~((of))~~ ruling on the validity of questioned or challenged ballots, ~~((of the))~~ verifying all unofficial returns as listed in the auditor's abstract of votes, and ~~((the))~~ producing ~~((of))~~ the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairman of the board of the county legislative authority, or their designated representatives.

(3) "Auditor's abstract of votes" is that report prepared by the county auditor which lists the number of registered voters, votes cast, all of the vote totals by precinct, or by combination of precincts if applicable ~~((, absentee ballot totals)),~~ legislative and congressional district subtotals, if any, and county-wide totals. In a gubernatorial general election, the auditor's abstract of votes must also include the number of write-in votes cast for governor. The auditor's abstract of votes must also include the reconciliation report required by RCW 29A.60.235 ~~((+))~~. Vote totals in the auditor's abstract of votes shall be unofficial until verified and certified by the county canvassing board.

(4) "County canvass report" is the auditor's abstract of votes after verification by the county canvassing board and shall contain a certificate which shall include the oath as specified in RCW 29A.60.200, the original signatures of each member of the county canvassing board, the county seal, and all other material pertinent to the election.

~~((5))~~ "Certified copy of the county canvass report" is that report transmitted by the county auditor to the secretary of state which contains registered voters and votes cast by precinct, or combination of precincts if applicable, votes cast for and against state measures, and votes cast for candidates for federal and statewide offices and for any office whose jurisdiction encompasses more than one county, absentee ballot totals for those measures and candidates, subtotals if applicable, and county-wide totals. It shall also include a certificate, bearing original signatures and an original county seal, identical to that included in the official county canvass report, and

~~any other material which may be pertinent to the canvass of the election.))~~

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-262-013 Crediting voters. ~~((Voters shall be credited for voting after each special, primary and general election.))~~

(1) A voter may not be credited for voting if the ballot was voted after election day, was received ~~((after))~~ later than the day before certification of the election, or will otherwise not be counted.

(2) The crediting of ~~((absentee or mail ballot))~~ voters in the county election management system must be completed prior to ~~((the))~~ certification of the election. ~~((The crediting of poll voters must be completed within thirty days of the election, and prior to the certification of the election when possible.))~~

(3) The reconciliation of voters credited with ballots counted shall be completed ~~((within thirty days following certification of a primary or))~~ prior to certification of the election. The certification must include, but is not limited to, information indicating that the number of ballots counted equals the number of voters credited. If these numbers do not match, the county auditor must take steps to reconcile the numbers and any discrepancies. If the county auditor cannot reconcile the numbers, documentation of steps taken to reconcile and any other applicable information must be included with the official reconciliation.

(4) Changes to the list of registered voters, such as new registrations, transfers, or cancellations, may not be made following a general election until the crediting reconciliation is complete. Correction of errors is allowed.

(5) The county auditor shall make an electronic or paper copy of the list of registered voters immediately following this reconciliation. Using this data, the county auditor shall also produce validation statistics for each minor taxing district in the county. Once the list is copied and the validation statistics are complete, changes to the data base may be made.

(6) Following certification of the election, each credited voter's history of voting must be updated in the statewide voter registration data base.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-262-020 Preliminary abstract of votes. ~~((Following the election and))~~ (1) Prior to the official canvass, the county auditor shall prepare a preliminary abstract of votes, listing the number of registered voters and votes cast. ~~((Provisional ballot results must be combined with precinct results.~~

~~((+))~~) The preliminary abstract of votes must list separately for each precinct:

- (a) Votes cast by ~~((absentee or))~~ mail ballot ~~((and votes cast at the polls));~~
- (b) Votes cast for and against measures;
- (c) Votes cast for candidates; and
- (d) Overvotes and undervotes.

(2) Pursuant to RCW 29A.60.230, the county auditor may aggregate results or take other necessary steps to maintain the secrecy of ballots.

(3) The county auditor shall inspect the preliminary abstract of votes for errors or anomalies that may affect the results of the election. Correction of any errors or anomalies discovered must be made prior to the official canvass.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-025 Canvassing board—Notice of open public meeting. All activities of the canvassing board shall be open to the public, although the board may limit the number of persons observing any aspect of the process whenever, in the judgment of the board, it is necessary to do so to preserve order and to safeguard the integrity of the process. The canvassing board may adopt and promulgate rules and regulations, not inconsistent with the provisions of this section, to ensure that the process is open to the public and that the procedures themselves are performed by the board free of any outside interference. The auditor shall publish notice of the meetings of the canvassing board. ~~((Such notice or notices shall be in substantially the following form:~~

OPEN PUBLIC MEETING NOTICE

~~The canvassing board of (Name of County) County, pursuant to chapter 29A.60 RCW, will hold public meetings at (Time of Meetings), (Dates), at (Locations), to (Purpose of Meetings). These meetings of the canvassing board are open, public meetings, and shall be continued until the activity for which the meetings are held has been completed.~~

~~A record of the proceedings of the county canvassing board shall be made and maintained in the county auditor's office, and shall be available for public inspection and copying. The record shall be retained for the same time period required by law for the retention of absentee ballots.))~~

AMENDATORY SECTION (Amending WSR 09-12-078, filed 5/29/09, effective 6/29/09)

WAC 434-262-030 County auditor's abstract of votes. No later than ~~((the fifteenth))~~ fourteen days following any primary or special election and ~~((the twenty-first))~~ twenty-one days following any general election the county canvassing board shall meet and canvass all ballots. Upon completion of this canvass, the board shall direct the county auditor to prepare the auditor's abstract of votes as defined by WAC 434-262-010. The reconciliation of ~~((absentee and vote by mail))~~ ballots must include documentation that the number of ballots counted plus the number of ballots rejected is equal to the number of ballots received. In addition, county auditors must provide any additional information necessary to explain variances between the number of ballots counted compared to the number of ballots received and credited. The certification report~~((s established in))~~ required by RCW 29A.60.235 ~~((+))~~ must be included with the abstract of votes and must be submitted at the time of the county certification.

AMENDATORY SECTION (Amending WSR 09-12-078, filed 5/29/09, effective 6/29/09)

WAC 434-262-031 Rejection of ballots or parts of ballots. (1) The disposition of provisional ballots is governed by WAC ((434-253-047)) 434-262-032. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

(2) Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(a) Where a voter has already voted one ballot;

(b) Where two voted ballots are contained within a returned mail ballot envelope containing only one valid signature (~~(under the affidavit)~~ on the ballot declaration, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures (~~(under the affidavit)~~ on the ballot declaration, both ballots must be counted;

(c) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;

(d) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

(e) Where the voter has overvoted;

(f) Where the voter validly transferred out of the county.

NEW SECTION

WAC 434-262-032 Provisional ballots—Disposition.

Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the county auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election. A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record. Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot is not counted.

(2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.

(3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.

(4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received for his or her precinct, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.

(5) If the voter is a registered voter in another county, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted, to the elections official for the jurisdiction in which the voter is registered. The ballot must be forwarded within seven cal-

endar days after a primary or special election and fourteen calendar days after a general election, and as soon as possible if past that date.

(6) If the voter voted a regular ballot and a provisional ballot, the provisional ballot is not counted if the regular ballot has already been counted. The regular ballot is not counted if the provisional ballot has already been counted.

(7) If the voter voted a provisional ballot because he or she failed to produce identification at a voting center, the ballot is counted if the signature on the envelope matches the signature in the voter registration record.

(8) If the voter voted a provisional ballot because the voter is provisionally registered and the voter's registration record is still flagged as requiring verification of identity, the provisional ballot is not counted.

(9) Provisional ballots voted for reasons not covered by this section or state statute must be determined by the county canvassing board.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-040 Verification of auditor's abstract of votes. The county canvassing board shall examine the auditor's abstract of votes and shall verify that all of the (~~(individual)~~) precinct (~~(and absentee)~~) ballot totals have been included in the abstract, and that the subtotals and county-wide totals for registered voters and votes cast are an accurate reflection of the sum of those (~~(individual)~~) precinct (~~(and absentee)~~) ballot totals.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-070 Official county canvass report.

Upon completion of the verification of the auditor's abstract of votes and the documentation of any corrective action taken, the county canvassing board shall sign a certification that the abstract is a full, true, and correct representation of the votes cast for the issues and offices listed thereon. The certification shall also state the total number of registered voters and votes cast in the county. The certification shall contain the oath required by RCW 29A.60.200, signed by the county auditor and attested to by the chairman of the board of the county legislative authority, and shall have a space where the official seal of the county shall be attached. This certification, the auditor's abstract of votes, (~~(any adding machine tapes produced during the verification process, and)~~) the written narrative of errors and discrepancies discovered and corrected, if applicable, and the reconciliation report required by RCW 29A.60.235 shall constitute the official county canvass report. This report may not be subsequently amended or altered, except in the event a recount conducted pursuant to chapter 29A.64 RCW, or upon order of the superior court, or by the county canvassing board reconvened specifically for that purpose. The vote totals contained therein shall constitute the official returns of that election.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

WAC 434-262-080 Transmittal of ~~((certified copy of))~~ county canvass report to the secretary of state. Immediately following the certification of the returns of any primary, special, or general election in which state measures, federal or state offices, or legislative or judicial offices whose jurisdiction encompasses more than one county appeared on the ballot, the county auditor must transmit ~~((those returns))~~ a copy of the official county canvass report to the secretary of state by ~~((fax, e-mail, or other))~~ electronic means. ~~((No later than the next business day, the county auditor must send to the secretary of state a certified copy of that part of the county canvass report and, if applicable, the written narrative, covering those issues and offices.))~~

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-090 Receipt of ~~((certified copy of))~~ county canvass report by secretary of state. The secretary of state shall ensure that all material required to be submitted pursuant to state law and these regulations has been included in the ~~((certified))~~ copy of the county canvass report transmitted to his or her office. In the event the secretary of state determines that the report is incomplete, he or she shall notify the county auditor of that fact and shall request that the missing part be forwarded immediately. No ~~((county's certified copy of the))~~ county canvass report shall be considered complete for acceptance by the secretary of state until all of the material required by statute and regulation has been received by the secretary of state. ~~((In the event the certified copy of the county canvass report is illegible or in improper form, the secretary of state shall return it and require an immediate resubmission of the report in proper or legible form.))~~

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-100 Canvass of returns by the secretary of state—Powers and duties. Upon receipt of a complete ~~((certified))~~ copy of the county canvass report from a county auditor, the secretary of state shall proceed to include the results from that abstract in the official canvass of the primary, special, or general election. This shall be accomplished by adding the certified returns from each county abstract of votes in order to determine the final results for those offices and issues he or she is required by law to certify. The secretary of state shall accept the ~~((certified copy of the))~~ official abstract of votes from each county as being full, true, and correct in all respects. The secretary of state may include in the official canvass, a narrative which details or describes any apparent discrepancies discovered during the canvassing procedure, and may notify the county or counties involved of such discrepancies.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-110 Certification of primary returns by the secretary of state. Pursuant to RCW 29A.60.240, upon completion of the canvass of each ~~((county's certified copy of the))~~ county auditor's abstract of votes and no later than ~~((the third Tuesday))~~ seventeen days following the primary, the secretary of state shall certify to the appropriate county auditors the returns for all state ballot measures, federal and statewide offices, and those legislative and judicial offices whose jurisdiction encompasses more than one county. In the event the secretary of state is unable to certify all or part of a primary election ~~((by the third Tuesday))~~ seventeen days following that primary because he or she has not received a ~~((certified))~~ copy of a county canvass report from one or more counties, or because there are discrepancies on a received report, he or she shall certify the state ballot measures and candidates for which completed abstracts have been received ~~((The secretary of state shall also set forth, by letter to the county auditors, those))~~, and provide reasons which render him or her unable to certify the entire primary. The certification of the remainder of the primary shall take place when all outstanding ~~((certified copies of))~~ county canvass reports have been received and filed.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

WAC 434-262-120 Certification of general election returns by the secretary of state. Pursuant to RCW 29A.60.250, upon completion of the canvass of each county's ~~((certified copy of the auditor's))~~ abstract of votes and no later than ~~((the thirtieth))~~ thirty days following a general election, the secretary of state shall certify to the governor, president of the senate, and speaker of the house of representatives the returns for all state ballot measures, federal and statewide offices, and those legislative and judicial offices whose jurisdiction encompasses more than one county. In the event the secretary of state is unable to certify all or part of a general election ~~((by the thirtieth))~~ thirty days following that election because he or she has not received a ~~((certified))~~ copy of a county canvass report from one or more counties, or because there are discrepancies on a received report, he or she shall certify the state ballot measures and candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the governor, president of the senate, and speaker of the house of representatives those reasons which render him or her unable to certify the entire election. The certification of the remainder of the election shall take place when all outstanding county canvass reports have been received.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-262-075

Election of political party precinct committee officers.

WAC 434-262-135	Thirty day reconciliation report.
WAC 434-262-203	Poll-site ballot reconciliation—Central count optical scan.
WAC 434-262-204	Poll-site ballot reconciliation—Precinct count optical scan and direct recording devices.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-264-090 Manual recount—((Preparation)) Sorting. ~~((Prior to beginning a manual recount, all ballots that were originally tabulated at the poll site must be inspected.))~~ All ballots must be sorted by precinct. If a results report from the original count or the previous machine recount can be produced by batch, ballots may be sorted by batch instead of precinct.

AMENDATORY SECTION (Amending WSR 07-12-032, filed 5/30/07, effective 6/30/07)

WAC 434-264-130 Recount—Completion. On completion of the recount:

(1) The county auditor ~~((shall))~~ must prepare an amended abstract of the recounted ballots for the county canvassing board. The amended abstract ~~((shall))~~ must include a revised cumulative summary, as well as the votes cast in each precinct for the office or measure that was recounted.

(2) The results must be formally reviewed and approved by the county canvassing board.

(3) If the results of the manual count do not match the results of the original count, the county canvassing board ~~((shall))~~ must verify all ballots have been recounted. The county canvassing board shall take all necessary steps to investigate and resolve any discrepancies.

(4) The county canvassing board ~~((shall))~~ must certify the amended abstract that, for each precinct, displays the results of the office that has been recounted. The new abstract ~~((shall))~~ must be included in the amended certified canvass report.

(5) Copies of the certified amended abstract ~~((will))~~ must be distributed to the same persons or agencies as the original certified abstract of votes.

(6) The amended certified canvass report must be available to the public by the next business day following the recount.

(7) Interim reports of the recount may be published at the discretion of the county canvassing board.

(8) If the recount involves ballots from more than one county, the secretary of state may require that amended abstracts be certified by each county canvassing board on a uniform date.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-005 Definitions. As used in this chapter:

(1) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.

(2) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.

(3) "Auditor" means "county auditor" and means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.

(4) "County election management system" means software used by county auditors to manage computer files pertaining to elections and includes, but is not limited to, voter registration records.

(5) "County registration number" means an identifier assigned to each registered voter by the county auditor.

(6) "Electronic registration" means the electronic submission of voter registration applications.

(7) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration data base.

(8) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

(9) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

(10) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter.

(11) "Pending cancellation" means the registered voter's registration record must be canceled within a specified amount of time and he or she is not eligible to vote.

(12) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

(13) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on his or her behalf.

(14) "State registration number" means a unique identifier assigned to each registered voter by the state, pursuant to RCW ~~((29A.08.651))~~ 29A.08.125.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-008 Review of county election management systems. (1) Each auditor must notify the secretary of the intent to purchase or install a new county election management system. The county election management system must be approved by the secretary to ensure it meets the technical specifications promulgated by the secretary to interface with the official statewide voter registration data base. This approval must be obtained prior to the purchase or installation of the system.

(2) A county election management system must have the capability to:

(a) Store information required in WAC 434-324-010;

(b) Generate a list of registered voters in a county and their registration statuses;

(c) Track information specific to single elections, including the issuance and return of ((~~vote by mail and absentee~~)) ballots;

(d) Scan voter registration forms; and

(e) Store and provide access to images of signatures of registered voters.

(3) A county's election management system must conform to all of the requirements of state law and of these regulations, and if it does not, the secretary must notify the auditor of the nature of the nonconformity. The auditor must correct the nonconforming aspects of the county election management system and provide to the secretary such evidence of the change or changes in the system as the secretary may deem appropriate.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-010 County election management system—Applications for voter registration. (1) Each auditor must enter and maintain voter registration records in the official statewide voter registration data base by using a county election management system. Each record must contain at least the following information from the voter registration application in a format compatible with the official statewide voter registration data base:

- (a) Name;
- (b) Complete residential address;
- (c) Complete mailing address;
- (d) County registration number;
- (e) State registration number;
- (f) Gender;
- (g) Date of birth;
- (h) Date of registration;
- (i) Applicable district and precinct codes;
- (j) Elections in which the individual has voted, if available;
- (k) Washington state driver license number, Washington state identification card number, and/or the last four digits of the applicant's Social Security number; and

(l) A scanned image file (format .tiff) of the applicant's signature.

(2) In the case of an applicant who provides a copy of one of the alternative forms of identification listed in RCW 29A.08.107 for registration purposes, the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was provided to the auditor. Pursuant to RCW 29A.08.710, a scanned image of the identification is not available for public inspection or copying.

(3)(a) If a voter registration application is incomplete, the county auditor may use other government resources and public records to confirm the missing information, except if the missing information is the applicant's signature or confirmation of United States citizenship. The county auditor may also attempt to contact the applicant by phone, e-mail or other means to obtain identification information.

(b) If, after these attempts, the county auditor is still unable to obtain the incomplete information, the county auditor must send the applicant a verification notice as defined by RCW 29A.08.030.

(4) Upon entry of an applicant's information, the auditor must check for duplicate entries.

~~((4))~~ (5) Each auditor must have a quality assurance program to maintain accurate data entry into the statewide voter registration data base.

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

WAC 434-324-020 County codes. All auditors shall use the following system of two character codes for designating the county in which the voter is registered:

(Adams	- AD	Lewis	- LE
Asotin	- AS	Lincoln	- LI
Benton	- BE	Mason	- MA
Chelan	- CH	Okanogan	- OK
Clallam	- CM	Pacific	- PA
Clark	- CR	Pend Oreille	- PE
Columbia	- CU	Pierce	- PI
Cowlitz	- CZ	San Juan	- SJ
Douglas	- DG	Skagit	- SK
Ferry	- FE	Skamania	- SM
Franklin	- FR	Snohomish	- SN
Garfield	- GA	Spokane	- SP
Grant	- GR	Stevens	- ST
Grays Harbor	- GY	Thurston	- TH
Island	- IS	Wahkiakum	- WK
Jefferson	- JE	Walla Walla	- WL
King	- KI	Whateom	- WM
Kitsap	- KP	Whitman	- WT
Kittitas	- KS	Yakima	- YA
Klickitat	- KI		

- (1) Adams: AD;
- (2) Asotin: AS;
- (3) Benton: BE;
- (4) Chelan: CH;
- (5) Clallam: CM;
- (6) Clark: CR;
- (7) Columbia: CU;
- (8) Cowlitz: CZ;
- (9) Douglas: DG;
- (10) Ferry: FE;
- (11) Franklin: FR;
- (12) Garfield: GA;
- (13) Grant: GR;
- (14) Grays Harbor: GY;
- (15) Island: IS;
- (16) Jefferson: JE;
- (17) King: KI;
- (18) Kitsap: KP;

- (19) Kittitas: KS:
- (20) Klickitat: KT:
- (21) Lewis: LE:
- (22) Lincoln: LI:
- (23) Mason: MA:
- (24) Okanogan: OK:
- (25) Pacific: PA:
- (26) Pend Oreille: PE:
- (27) Pierce: PI:
- (28) San Juan: SJ:
- (29) Skagit: SK:
- (30) Skamania: SM:
- (31) Snohomish: SN:
- (32) Spokane: SP:
- (33) Stevens: ST:
- (34) Thurston: TH:
- (35) Wahkiakum: WK:
- (36) Walla Walla: WL:
- (37) Whatcom: WM:
- (38) Whitman: WT; and
- (39) Yakima: YA.

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-324-031 Electronic voter registration. (1)

The secretary of state's electronic voter registration web page must have the capability to:

- (a) Reject applicants without a Washington state driver's license or state identification card;
 - (b) Require the applicant to affirmatively assent to the use of his or her driver's license or state identification card signature for voter registration purposes;
 - (c) Require the applicant to attest to the truth of the information provided on the application;
 - (d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing and include it with the other information required for each applicant's voter registration; and
 - (e) Electronically transfer all information required for each applicant's voter registration to his or her county auditor for entry into the statewide voter registration data base through the county election management system.
- (2) Once election registration information is entered into county election management systems, the same timelines and processes used for registration by mail apply to electronic registration. A county auditor may allow voters registering in person at the county auditor's office between twenty-nine days before an election and eight days before an election to register using the electronic voter registration system.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-045 Verification of applicant's identity. (1) If the applicant is provisionally registered pursuant to WAC 434-324-040(5), the county auditor ~~((must verify the applicant's identity before counting the applicant's ballot. The county auditor))~~ may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the

applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identification notice at the time of registration that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identification notice must include:

(a) A statement explaining that because the applicant's identity cannot be verified with the information provided on the application, he or she is provisionally registered to vote.

(b) A statement explaining that if this information is not provided, the applicant's ballot will not be counted.

(c) A statement explaining that federal law requires the applicant to provide a copy of one of the following forms of identification either before or when they vote:

- (i) A Washington driver's license or state ID card;
- (ii) The last four digits of his or her Social Security number;
- (iii) Valid photo identification;
- (iv) A valid enrollment card of a federally recognized tribe in Washington;
- (v) A current utility bill, or a current bank statement;
- (vi) A current government check;
- (vii) A current paycheck; or
- (viii) A government document, other than a voter registration card, that shows both the registrant's name and current address.

(3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. ~~((#))~~ The applicant ((votes by mail, he or she)) must be notified at the time of each election that the ballot will not be counted unless he or she provides adequate verification of identity.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration shall be canceled.

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-324-106 Felony screening process. (1) The law on when the right to vote is restored following a felony conviction is established in RCW 29A.08.520. Three times a year, the secretary must compare the voter registration records to lists of felons who are either incarcerated or on community supervision with the Washington state department of corrections, and to lists of felons convicted in federal district courts with a sentence of at least fifteen months incarceration. The secretary must create a list of felon voters by

matching the first name, last name, date of birth, and other identifying information.

(2) For each felon voter, the secretary must change the voter's registration status to "pending cancellation." This change of status must be entered prior to the first extraction or pull of ~~((absentee or))~~ mail ballots. The official statewide voter registration data base must automatically notify the county election management system of the change. Voters with pending cancellation status must not be ~~((included in a poll book or be mailed an absentee or mail))~~ issued a ballot.

(3) The secretary must mail a notification letter to each felon whose status is pending cancellation. The notification letter must be sent to the felon's last known registration mailing address and, if the person is incarcerated or on community supervision with the department of corrections, to the offender's department of corrections address indicating that his or her voter registration is about to be canceled. The letter must contain language notifying the felon that he or she must contact the auditor's office to contest the pending cancellation. The letter must also inform the felon that he or she may request a provisional ballot for any pending elections. The notification letter must include:

(a) An explanation that a felon loses the right to vote until the right is restored;

(b) For a conviction in a Washington state court, the right to vote is restored as long as the felon is not serving a sentence of confinement or subject to community custody with the department of corrections. For a conviction in another state or federal court, the right to vote is restored as long as the felon is no longer incarcerated;

(c) The reason the felon has been identified as ineligible to vote;

(d) An explanation that the felon's voter registration will be canceled due to the felony conviction; and

(e) How to contest the pending cancellation. The secretary must send to each auditor the voter registration and conviction information for each matched felon registered in that county.

(4) If the felon fails to contact the auditor within thirty days, the felon's voter registration must be canceled. If an election in which the felon would otherwise be eligible to vote is scheduled to occur during the thirty days, the felon must be allowed to vote a provisional ballot.

(5) The felon's eligibility status may be resolved and the pending cancellation status reversed without scheduling a hearing if the felon provides satisfactory documentation that the felon's voting rights have been restored, the conviction is not a felony, the person convicted is not the registered voter, or the felon is otherwise eligible to vote. The auditor must notify the voter, retain a scanned copy of all documentation provided, and notify the secretary. The secretary must flag the voter registration record to prevent future cancellation on the same basis.

(6) If the felon requests a hearing, the auditor must schedule a public hearing to provide the felon an opportunity to dispute the finding. In scheduling the hearing, the auditor may take into account whether an election in which the felon would otherwise be eligible to vote is scheduled. The notice must be mailed to the felon's last known registration mailing address and must be postmarked at least seven calendar days

prior to the hearing date. Notice of the hearing must also be provided to the prosecuting attorney.

(7) The auditor must provide the prosecuting attorney a copy of all relevant registration and felony conviction information. The prosecuting attorney must obtain documentation, such as a copy of the judgment and sentence~~(s)~~ or custody or supervision information from the Washington department of corrections, the out-of-state court or prison, or the federal court or Bureau of Prisons, sufficient to prove by clear and convincing evidence that the felon is ineligible to vote. It is not necessary that the copy of the document be certified.

(8) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility in time to hold a hearing prior to certification of an election in which the felon would otherwise be eligible to vote, the prosecuting attorney must request that the auditor dismiss the current cancellation proceedings. The auditor must reverse the voter's pending cancellation status, cancel the hearing, and notify the voter. A provisional ballot voted in the pending election must be counted if otherwise valid. The prosecuting attorney must continue to research the felon's voting eligibility. If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility prior to the next election in which the felon would otherwise be eligible to vote, the prosecuting attorney must notify the auditor. The auditor must notify the secretary, who must flag the voter registration record to prevent future cancellation on the same basis.

(9) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the felon would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the felon is ineligible to vote, the prosecuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The felon must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the felon's voting eligibility. If the felon is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registration must be canceled. If the voter is determined to be eligible to vote, the voter's pending cancellation status must be reversed and the secretary must flag the voter registration record to prevent future cancellation on the same basis. The felon must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.

(10) If the felon's voter registration is canceled after the felon fails to contact the auditor within the thirty day period, the felon may contact the auditor at a later date to request a hearing to dispute the cancellation. The auditor must schedule a hearing in substantially the same manner as provided in subsections (6) through (9) of this section.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

WAC 434-324-115 Challenge of voter's registration.

All county auditors and the secretary of state shall furnish to the public on request forms substantially similar to the sample included below for the purpose of allowing a registered voter to challenge the registration of another voter pursuant to RCW 29A.08.810 through 29A.08.850.

VOTER REGISTRATION CHALLENGE

AFFIDAVIT

I, declare under penalty of perjury under the laws of the State of Washington that I am a registered voter in the State of Washington and that I hereby challenge the voter registration of:

Name Registered Address

I have personal knowledge and belief that this person is not qualified to vote or does not reside at the address given on his or her voter registration record, as evidenced below. I have exercised due diligence to personally verify the evidence presented.

REASON FOR CHALLENGE

Check the appropriate box below. The voter:

- Is not a U.S. Citizen.
Will not be at least eighteen years old by the next election.
Has been convicted of a felony and his or her right to vote has not been restored.
Has been judicially declared ineligible to vote due to mental incompetency.
Does not reside at the address at which he or she is registered to vote, in which case I am submitting either:
1) The address at which the challenged voter actually resides:
or
2) Evidence that I exercised due diligence to verify that the voter does not reside at the address provided and to attempt to contact the voter to learn the voter's actual residence. I personally:
Sent a letter with return service requested to all known addresses for the voter;
Visited the voter's residential address to contact persons at the address to determine if the voter actually resides there. If I was able to contact anyone who owns, manages, resides, or is employed at the address, I am submitting a signed affidavit from that person stating that, to his or her personal knowledge, the voter does not reside at the address;
Searched local telephone directories to determine whether the voter maintains a telephone listing at an address within the county;

- Searched county auditor property records to determine whether the voter owns any property in the county; and
Searched the statewide voter registration data base to determine if the voter is registered at any other address in the state.

List the evidence for the challenge:

Four horizontal lines for listing evidence.

Signature of Challenger Date and Place Signed

Address City, State, Zip

Attach all necessary documentation.

FILING A VOTER REGISTRATION CHALLENGE

General Information

The registration of a person as a voter is presumptive evidence of that person's right to vote. A voter registration challenge cannot be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to a challenge are public records. A challenge may be dismissed if it is not in proper form or if the reason is not grounds for a challenge. The challenge process is established in RCW 29A.08.810 through 29A.08.850. Residency requirements are established in Article VI, section 4 of the Washington state Constitution, RCW 29A.04.151 and 29A.08.112.

Who May File a Challenge and When

A registered voter or the prosecuting attorney may file a challenge. To affect an upcoming election, the challenge must be filed at least forty-five days before the election. However, if the challenged voter registered less than sixty days before the election or moved less than sixty days before the election without transferring the registration, the challenge must be filed at least ten days before the election or ten days after the voter registered, whichever is later. ((Additionally, a poll site judge or inspector may challenge a voter's right to vote on election day at the poll site.))

Exceptions to the Residency Requirements

A voter does not lose his or her voting residency if absent due to state or federal employment, military service, school attendance, confinement in a public prison, out-of-state business, or navigation at sea. A voter who lacks a traditional residential address, such as a person who resides in a shelter, park, motor home or marina, is assigned a precinct based on the voter's physical location.

The Hearing

The county auditor notifies the voter and challenger of the hearing date and time. The voter and challenger may either

appear in person or submit testimony by affidavit. The county auditor presides over the hearing, unless the challenge was filed during the forty-five days before an election, in which case the county canvassing board presides over the hearing. The challenger has the burden to prove by clear and convincing evidence that the voter's registration is improper. The voter has an opportunity to respond. The final decision may only be appealed in superior court.

NEW SECTION

WAC 434-324-125 Voter registration data base manual. The secretary of state and each county auditor must conduct voter registration list maintenance, process on-line voter registrations, motor voter registrations and agency-based registrations, and update registrations according to procedures and instructions in the voter registration data base on-line help manual.

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-335-040 Voting system requirements. (1) No voting device or its component software may be certified by the secretary of state unless it:

- (a) Secures to the voter secrecy in the act of voting;
- (b) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;
- (c) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (d) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for President and Vice-President of the United States;
- (e) Produces a machine countable and human readable paper record for each vote that may be accepted or rejected by the voter before finalizing his or her vote. The paper record of an electronic vote may not be removed from the device by the voter. If the voting device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter; and
- (f) Has been tested and approved by the appropriate voting system test laboratory approved by the United States election assistance commission.

(2) No vote tabulating system may be certified by the secretary of state unless it:

- (a) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;
 - (b) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;
 - (c) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each ballot measure on the ballot in that precinct;
 - (d) Produces precinct and cumulative totals in printed form; and
 - (e) Produces legislative and congressional district totals for statewide races and issues in electronic and printed form.
- (3) A vote tabulating system must:

- (a) Be capable of being secured with lock and seal when not in use;
- (b) Be secured physically and electronically against unauthorized access;
- (c) Not be connected to, or operated on, any electronic network including, but not limited to, internal office networks, the internet, or the world wide web. A network may be used as an internal, integral part of the vote tabulating system but that network must not be connected to any other network, the internet, or the world wide web; and
- (d) Not use wireless communications in any way.

~~((4) The source code of electronic voting system software that has been placed in escrow must be identical to the source code of software that has been tested and certified by the federal voting system test laboratory and installed in the county. The applicant must place in escrow both the human-readable source code and the working or compiled version. In lieu of placing them in escrow, the source code and the working or compiled version may be deposited with the national software reference library. The software may be verified by matching the system's digital software signatures with the digital signatures the elections assistance commission has on file, when available.))~~

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-335-060 Examination of equipment. Secretary of state staff will initiate an examination of the applicant's equipment after receiving a completed application and a working model of the equipment, documentation, and software to be reviewed.

The examination verifies that the system or equipment meets all applicable federal guidelines, and consists of a series of functional application tests designed to ensure that the system or equipment meets Washington state law and rules. The software tested shall be the approved software from the voting system test laboratory.

The examination may include an additional voting system test laboratory test at the discretion of the secretary of state. The examination shall include the set-up and conduct of mock elections, including a machine recount. The elections must feature at least ten precincts, with at least ten ballots in each precinct, and must test split precincts (~~(-precinct committee officer contests)~~), partisan and nonpartisan offices, and contests that allow the voter to vote for multiple candidates. The tests must include ballots of various ballot styles, and include multiple candidates, write-in candidates and overvoted contests.

AMENDATORY SECTION (Amending WSR 10-03-072, filed 1/18/10, effective 2/18/10)

WAC 434-335-520 Logic and accuracy testing of accessible voting units. (1) The logic and accuracy test of accessible voting units must be completed before they may be used for marking or casting ballots. Counties must complete the testing to have in-person accessible voting available starting ~~((twenty))~~ eighteen days before the day of a primary or election.

(2) This test serves as the official logic and accuracy test. A log must be created during the test, recording the time of each test, the precinct numbers, the seal number, the machine number, and the initials of each person testing the system. The log must be included in the official logic and accuracy test materials. This process is open to observation and subject to all notices and observers pursuant to WAC 434-335-290 and 434-335-320.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-335-490 Poll site-based optical scan ballot counter preparation and testing.

AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

WAC 434-381-120 Deadlines. (1) Candidate statements and photographs shall be submitted to the secretary of state no later than the Friday following the last day of the filing period.

(2) For ballot measures, including initiatives, referenda, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: Within (~~ten~~) seven business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, within (~~ten~~) seven business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot:

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, not later than the date the committee submits its initial argument to the secretary of state;

(c) Arguments for or against a ballot measure, no later than (~~fifteen~~) ten business days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, by no later than (~~ten~~) five business days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters' pamphlet. Nothing in this rule shall preclude the secretary of state from accept-

ing a late filing when, in the secretary's judgment, it is reasonable to do so. Once statements or arguments are submitted to the secretary, changes by the candidate or committee will not be accepted unless requested by the secretary.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-253-005	Broken or missing seals.
WAC 434-253-010	Polling place—Activities prohibited.
WAC 434-253-020	Polling place—Election supplies.
WAC 434-253-023	Voter verified paper audit trail—Duties prior to opening of the polls.
WAC 434-253-024	Poll book of registered voters.
WAC 434-253-025	Polling place—Items to be posted.
WAC 434-253-030	Securing the ballot box.
WAC 434-253-045	Provisional ballots—Required information.
WAC 434-253-047	Provisional ballots—Disposition.
WAC 434-253-048	Provisional ballots—Free access system.
WAC 434-253-049	Provisional ballots—Processing.
WAC 434-253-050	Voter unable to sign name—Authority to vote.
WAC 434-253-070	Accounting for ballot stub.
WAC 434-253-080	Voter leaving polling place prior to casting ballot.
WAC 434-253-090	Designation of poll watchers.
WAC 434-253-100	Electronic voting devices—Identified for specific offices or measures.
WAC 434-253-110	Examination of voting devices.
WAC 434-253-115	Direct recording electronic device paper printer malfunction.
WAC 434-253-120	Spoiled ballot procedures.
WAC 434-253-130	Assistance to voters.
WAC 434-253-140	Voter intentionally causing delay.

WAC 434-253-150	Closing the polls.	WAC 434-257-030	Standards for accessible polling places.
WAC 434-253-160	Ballot accountability form—Poll-sites without direct recording devices.	WAC 434-257-040	Use of public buildings as polling places.
WAC 434-253-165	Ballot accountability form—Precincts with direct recording devices.	WAC 434-257-070	Report of precincts and polling places.
WAC 434-253-170	Securing provisional, challenged, spoiled, unused, and absentee ballots.	WAC 434-257-090	Accessible polling places—Exceptions.
WAC 434-253-200	Count of regular voted ballots.	WAC 434-257-100	Procedures for inaccessible polling places.
WAC 434-253-203	Precinct count optical scan and direct recording devices—Poll-site reconciliation.	WAC 434-257-130	Voting instructions.
WAC 434-253-220	Transfer of ballots prior to closing of the polls.	WAC 434-257-140	Contingency plans for disability access units.
WAC 434-253-225	Preparation for transfer of direct recording electronic device paper records.	WAC 434-257-150	Notice of accessibility.

WSR 11-24-067
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed December 6, 2011, 12:37 p.m., effective January 6, 2012]

Effective Date of Rule: Thirty-one days after filing.
 Purpose: Implementation of chapter 18.310 RCW, Appraisal management companies, as passed by the 2010 Washington state legislature.

Statutory Authority for Adoption: RCW 18.310.020(1).
 Adopted under notice filed as WSR 11-20-043 on September 28, 2011.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-409-020(2), change "ten days" to "fourteen business days"; and WAC 308-409-060 (1)(b), delete "the amount of fees collected from each client for each appraisal service."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 10, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 10, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 6, 2011.

Ben T. Shomshor
 Rules Coordinator

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-257-010	Purpose.
WAC 434-257-020	Definitions.

Chapter 308-409 WAC

APPRAISAL MANAGEMENT COMPANIES

NEW SECTION

WAC 308-409-020 Application process to license as an appraisal management company. (1) An entity applying for licensure as an appraisal management company shall present to the department:

(a) A completed licensure application form that complies with RCW 18.310.060;

(b) Completed registration forms for the owner(s) of ten percent or more of the company and controlling persons, including a designated controlling person.

(c) Fingerprint cards, that are identified to the appraisal management company program, for owner(s) of ten percent or more of the company and controlling person(s);

(i) An application submitted without the required fingerprint card(s) is considered incomplete.

(ii) When a fingerprint card is rejected, the owner or controlling person must submit to the department a new fingerprint card within twenty-one calendar days of written notice to the address of record on file with the appraisal management company program.

(iii) Failure to submit a new fingerprint card may result in a suspension of the appraisal management company license until the fingerprint card is received by the department.

(iv) If the fingerprint card is rejected, the applicant must pay a new fee for fingerprinting and background processing. After three failed submissions, the program may use other sources/methods to satisfy the background check requirement.

(d) Proof of surety bond; and

(e) Appropriate fees.

(2) A change in ownership or controlling person(s) of the appraisal management company will require the new owner(s) or controlling person(s) to submit owner or controlling person registration form(s) to the department together with fingerprint cards, that are identified to the appraisal management company program, and appropriate processing fees within fourteen business days of change.

NEW SECTION

WAC 308-409-030 Licensure and renewal. (1) Appraisal management companies must be licensed by January 1, 2012.

(2) Each original and renewal license issued under chapter 18-310 RCW shall expire two years from date of issue.

(3) To be renewed as an appraisal management company, the holder of a valid license shall submit an application and pay the prescribed fee to the director no earlier than ninety days prior to the expiration date.

(4) If a company fails to renew a license prior to its expiration and no more than one year has passed since the company last held a valid license, the company may obtain a renewed license by paying the renewal fee and late renewal penalty fee.

(5) The director shall cancel the license of any company whose renewal fee is not received within one year from the date of expiration. A company may obtain a new license by applying for original licensure as an appraisal management company.

NEW SECTION

WAC 308-409-035 Surety bond requirements. (1) All appraisal management companies must maintain surety bonds that conform to RCW 18.310.040 in an active status at all times during the period of licensure.

(2) The bond must provide that the surety will give the department of licensing and the licensee thirty days advance notice of cancellation or termination of the bond with the reason for the cancellation or termination; provided, that no such notice shall be required when the termination of the bond is due to the expiration or revocation of the subject license.

NEW SECTION

WAC 308-409-040 Business location and/or physical address and mailing address. It is the responsibility of each licensed appraisal management company to notify the department of a change of business location and/or physical address and mailing address for receiving certified mail and service of documents. Change of address notification shall be made within fourteen business days of the change of address.

NEW SECTION

WAC 308-409-050 Fees and charges. The following fees shall be paid under the provisions of chapter 18.310 RCW:

Title of Fee	Fee
Original licensure	\$2,400.00
Renewal	1,200.00
Late renewal penalty	38.00
Duplicate license	30.00
Fingerprint processing	35.25

NEW SECTION

WAC 308-409-055 Required records—Accessibility of records to the department of licensing. Appraisal management companies must retain records in accordance with RCW 18.310.130. Such records will be subject to random audit by the department without notice and must be readily available for inspection by a representative of the department.

NEW SECTION

WAC 308-409-060 Additional required records. (1) An appraisal management company having been issued a license shall comply with the following:

(a) Shall maintain with the department the name and address of the designated controlling person for service of process and shall furnish in writing to the department any

changes to the information on file within fourteen business days.

(b) An appraisal management company shall maintain a complete record of all requests for appraisal services referred to state licensed and certified appraisers as well as payments and dates of payments made to the appraisers and shall make such information available to the department upon written request. An appraisal management company's statement of recordkeeping certification upon registration with the division and biennially thereafter shall be signed by its designated controlling person and shall describe its system for maintaining a record of:

(i) The name of the appraiser who accepts each assignment and signs the corresponding appraisal report; or

(ii) If an assignment is accepted by an appraisal company, the name of the appraisal company that accepts the assignment.

(2) The appraisal management company shall make available to the department any and all records that are required to be maintained under RCW 18.310.130 and this section or records relevant to compliance with this chapter and other relevant statutes.

(3) At any time a document filed with the department becomes inaccurate, the appraisal management company shall promptly file with the department an amendment correcting that information within twenty-one business days.

(4) An appraisal management company shall, at all times, maintain a current list of its appraisal panel and shall provide a copy of that list to the department upon written request.

NEW SECTION

WAC 308-409-070 Required disclosure to appraisers. When engaging the appraiser, the appraisal management company shall disclose to an appraiser, within their engagement documents, the state license number of the appraisal management company.

NEW SECTION

WAC 308-409-080 Prohibitions. (1) In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, actions or conditions:

(a) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow the professional appraisal assistance of registered real estate appraiser trainees in appraisal services unless such action is required by the appraisal management company's client;

(b) The appraisal management company shall not permit any employee, agent, third party, or controlling principal to engage in any of the following activities:

(i) Require the appraiser to collect the appraisal fee from a borrower, homeowner, or third party or to accept a credit card payment;

(ii) Require the appraiser to provide the appraisal management company with the appraiser's digital signature or seal; or

(iii) Compensate an unlicensed appraisal management company for referrals of appraisal services.

(2) This section does not prohibit an appraisal management company or an individual with an interest in a real estate transaction from requesting an appraiser to:

(a) Consider additional appropriate property information including relevant sales comparables not considered in the initial appraisal report;

(b) Provide further detail, substantiation or explanation of the appraiser's value conclusion; or

(c) Correct errors in the appraisal report.

NEW SECTION

WAC 308-409-100 Appraisal reports—Alterations—Use. The licensed appraisal management company shall not, under any circumstances remove data or portions thereof from the completed appraisal report for use in any form or for any reason.

WSR 11-24-087

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-19—Filed December 7, 2011, 7:02 a.m., effective January 7, 2012]

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

Purpose: The rule defines the requirements of filing a biographical affidavit for foreign, alien, and domestic insurers. It outlines additional circumstances requiring domestic insurers to file a new biographical affidavit.

Citation of Existing Rules Affected by this Order: Amending chapter 284-07 WAC.

Statutory Authority for Adoption: RCW 48.02.060, 48.36A.290, 48.44.050, 48.46.030, and 48.46.200.

Adopted under notice filed as WSR 11-21-094 on October 19, 2011.

A final cost-benefit analysis is available by contacting Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7040, fax (360) 586-3109, e-mail donnad@oic.wa.gov.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

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

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

Date Adopted: December 7, 2011.

Mike Kreidler
Insurance Commissioner

BIOGRAPHICAL AFFIDAVITSNEW SECTION

WAC 284-07-600 Definitions. For the purposes of this regulation, WAC 284-07-610 and 284-07-620, called the biographical affidavits regulation, the following definitions apply:

(1) A "biographical affidavit" means the current National Association of Insurance Commissioners (NAIC) Biographical Affidavit, Form 11, available on the NAIC's web site at www.naic.org.

(2) A "domestic insurer" includes an entity organized under the laws of this state, domiciled in this state or using this state as its state of entry including:

(a) An insurer authorized under chapter 48.05 RCW.

(b) A fraternal benefit society as defined in RCW 48.36A.010 and authorized under chapter 48.36A RCW.

(c) A health care service contractor defined in RCW 48.44.010 and registered under chapter 48.44 RCW.

(d) A health maintenance organization defined in RCW 48.46.020 and registered under chapter 48.46 RCW.

(e) A self-funded multiple employer welfare arrangement defined in RCW 48.125.010 and authorized under chapter 48.125 RCW.

(f) An alien insurer authorized under chapter 48.05 RCW and subject to the requirements under chapter 48.35 RCW.

(3) A "foreign insurer" or an "alien insurer" are as defined in RCW 48.05.010 and authorized under chapter 48.05 RCW.

(4) An "officer" or "director" includes:

(a) A controlling individual as defined in RCW 48.31B-005(2) and 48.31C.010(3);

(b) An executive officer as defined in WAC 284-18-340 and 284-18A-340; and

(c) Key management personnel who control the operations of a domestic, foreign or alien insurer.

NEW SECTION

WAC 284-07-610 Filing requirements for foreign and alien insurers. (1) Foreign and alien insurers must file a biographical affidavit for each officer or director as specified by the NAIC Uniform Certificate of Authority Application (UCAA) as part of an application for certificate of authority or certificate of registration.

(2) Alien insurers authorized under chapter 48.35 RCW must meet the requirements of WAC 284-07-620.

(3) Biographical affidavits must be investigated and verified by a vendor authorized by the NAIC to perform a state, national, or international history background check. Verification reports must be submitted directly to the commissioner by the background investigation agency.

NEW SECTION

WAC 284-07-620 Filing requirements for domestic insurers. (1) Domestic insurers must file a biographical affidavit:

(a) For each officer or director as part of an application for a solicitation permit, certificate of authority, or certificate of registration.

(b) Within thirty business days after:

(i) An individual becomes an officer or director;

(ii) A material change of filed information required in the biographical affidavit; or

(iii) At the request of the commissioner.

(c) Within fifteen business days, of any information concerning the conviction of an officer or director of a felony or the naming of an officer or director, other than as a party plaintiff or complainant, in a criminal or civil action in which fraud is an issue.

(d) Every thirty-six months after the last biographical affidavit filed.

(2) An officer or director may choose to list all affiliate insurers and insurers under common control on one biographical affidavit in lieu of filing a separate form for each affiliated insurer.

(3) Biographical affidavits must be investigated and verified by a vendor authorized by the NAIC to perform a state, national, or international history background check. Verification reports must be submitted directly to the commissioner by the background investigation agency.

WSR 11-24-088**PERMANENT RULES****DEPARTMENT OF LICENSING**

[Filed December 7, 2011, 8:38 a.m., effective January 7, 2012]

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

Purpose: To issue volunteer firefighter license plates to eligible applicants based on the requirement identified in SHB 1136 passed during the 2011 legislative session.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: Chapter 225, Laws of 2011.

Adopted under notice filed as WSR 11-22-115 on November 2, 2011.

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

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

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

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

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

Date Adopted: December 7, 2011.

Ben T. Shomshor
Rules Coordinator

NEW SECTION

WAC 308-96A-077 Volunteer firefighter special vehicle license plate series. (1) **Who may apply for the volunteer firefighters license plate(s)?** Any person that:

- Meets the requirements and has proven eligibility as per RCW 46.18.210;
- Is not requesting issue for a vehicle registered under chapter 46.87 RCW;
- Has paid all applicable fees and taxes.

The volunteer firefighters special license plate(s) will be issued upon proof of eligibility and receipt of all applicable fees.

(2) **What must be provided as proof that the applicant qualifies?** The applicant must provide documentation of service from the fire district(s) where they serve or have served.

(3) **When is proof required?** Upon initial application.

(4) **Can the volunteer firefighters special license plate(s) be retained if the applicant is no longer a volunteer firefighter?** Yes, if the license plate owner has at least ten years of service, the license plate can be retained and renewed.

(5) **If I have less than ten years of service, can I retain the plates if I am no longer a volunteer firefighter?** No, They must be surrendered at the next registration renewal date.

(6) **Is there a limit to the number of sets of license plates that a volunteer firefighter can have?** Yes, there is a maximum of two sets per applicant.

(7) **Are there any other circumstances when the volunteer firefighter plates must be surrendered?** Yes, if the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony. It is the responsibility of the license plate owner to notify the department and surrender the plates. However, if the department is notified of the conviction, the department has authority to cancel the plates under RCW 46.12.160.

(8) **When ownership of a vehicle issued volunteer firefighters license plate(s) is transferred, what happens to the plate(s)?** The special license plate owner must remove the plate(s) from the vehicle. The plate owner may transfer the special plate(s) to a replacement vehicle by visiting a vehicle licensing office. License plate transfer and other applicable fees apply.

(9) **What fees are charged when the volunteer firefighters license plate(s) are transferred to a replacement vehicle?** If the registration expiration date for the replacement vehicle is later than the registration expiration date of the current vehicle, an abated fee for the volunteer firefighters license plate will be charged. It is charged at the rate of one-twelfth of the annual volunteer firefighters license plate(s) fee for each month and partial month. If the new registration expiration date is sooner than the previous registration expiration date, a refund will not be made for the remaining registration period.

(10) **Will volunteer firefighters license plate(s) ever need replacing?** Yes, the volunteer firefighters license plate(s) are subject to the mandatory vehicle license plate replacement schedule.

(11) **When replacing volunteer firefighters license plate(s), is the same license plate number/letter combination issued?** No, unless the owner chooses to pay an additional fee to keep the same number. If the vehicle owner requests and pays the fees described in RCW 46.16.233, the volunteer firefighters license plate(s) may be replaced with the same number/letter combination as shown on the vehicle computer record.

(12) **Will my license plates that have been reported stolen be replaced with new license plates with the same number/letter combination?** If the license plate(s) has been reported as stolen or if the department record indicates the plate has been stolen, the same number/letter combination will not be issued. This is a law enforcement issue for the protection of the public.

WSR 11-24-099**PERMANENT RULES****LIQUOR CONTROL BOARD**

[Filed December 7, 2011, 11:08 a.m., effective January 7, 2012]

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

Purpose: Revisions were needed to WAC 314-44-005 to implement SSB 5788 from the 2011 legislative session.

Citation of Existing Rules Affected by this Order: Amending WAC 314-44-005.

Statutory Authority for Adoption: RCW 66.24.310.

Other Authority: RCW 66.08.030.

Adopted under notice filed as WSR 11-21-047 on October 12, 2011.

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

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

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

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

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

Date Adopted: December 7, 2011.

Sharon Foster
Chairman

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices. (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill

activities, unless such person is holder of an agent's license as provided in RCW 66.24.310, and this regulation.

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer distributor's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine. A person, firm, or corporation so qualified, is herein defined to be an eligible employer. Such employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board. This subsection shall not apply to drivers who deliver beer or wine or to domestic wineries or their employees. Employees of a domestic winery must have identification on them that indicates they work for the winery. Identification may be in the form of a winery's business card, employee badge, or similar identification.

(3) Any person acting as an independent contractor for a winery must have an agent's license. An independent contractor is defined as an independent business person who runs his or her own business that provides services to another individual or business. The independent contractor is a separate business entity. The earnings of a person who is working as an independent contractor are subject to self-employment tax.

~~((3))~~ (4) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

~~((4))~~ (5) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

~~((5))~~ (6) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall solicit either in person, by mail or otherwise, any liquor vendor or employee of the board, except the purchasing agent thereof, for the purpose or with the intent of furthering the sale of a particular brand or brands of merchandise as against another brand or brands of merchandise.

~~((6))~~ (7) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall visit any state liquor store or agency for the purpose of exerting influence on employees for sales promotion or to secure information regarding inventory or any other matter relating to sales. They may deliver, or have delivered, and assemble where required, consumer offers and display material that have been approved by the board or its designee. Violation of this section will result in a penalty against all company items, which in appropriate cases could mean a partial or total delisting of those items.

~~((7))~~ (8) No distiller, manufacturer, importer, or distributor of liquor, or agent thereof, shall give or offer to any employee of the board any entertainment, gratuity or other consideration for the purpose of inducing or promoting the sale of merchandise.

~~((8))~~ (9) No distiller, manufacturer, importer, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

~~((9))~~ (10) Upon the infraction of any law or regulation by any distiller, manufacturer, importer, distributor, or agent, the board may, in addition to imposing other penalties as prescribed by law, remove such firm's products from the sales list of the board, and/or prohibit the sale of any brand or brands of beer or wine involved as provided in RCW 66.28-030.

~~((10))~~ (11) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board and with such notice return to the board the agent's license issued to such person.