

WSR 12-15-001
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-139—Filed July 6, 2012, 9:20 a.m., effective August 6, 2012]

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

Purpose: The subject of this rule making is updating Washington department of fish and wildlife's (WDFW) public records rules. These changes update WDFW's rules to bring them into compliance with the Public Records Act and repeal outdated and inapplicable rules. These changes also integrate department policies with the AGO's model rules. Many changes bring existing rules into compliance with current statutory requirements and delete several WAC sections that are outdated and inaccurate.

Reasons Supporting Proposal: These changes are required under the Public Records Act, chapter 42.56 RCW. Additionally, WDFW is currently involved in a project to streamline, update, and reorganize its administrative code, and these changes will contribute to those efforts. The fish and wildlife commission was briefed on this proposal and held a public hearing on June 1, 2012.

Citation of Existing Rules Affected by this Order: Amending WAC 220-80-010 Purpose, 220-80-020 Definitions, 220-80-030 Description of organization of the department of fisheries, 220-80-040 Operations and procedures, 220-80-050 Public records available, 220-80-060 Public records officer, 220-80-080 Requests for public records, 220-80-090 Copying, 220-80-100 Exemptions and 220-80-110 Review of denials of public records requests; and repealing WAC 220-80-070 Office hours, 220-80-120 Protection of public records, 220-80-130 Records index, 220-80-140 Address for request, 220-80-150 Use of record request form, 232-12-800 Purpose, 232-12-804 Description of central and field organization of the department of game, 232-12-807 Operations and procedures, 232-12-810 Public records officer, 232-12-813 Copying, 232-12-814 Requests for public records, 232-12-820 Review of denials of public records requests, and 232-12-824 Records index.

Statutory Authority for Adoption: Chapter 42.56 RCW, RCW 42.56.040, 77.04.013, and 77.12.047.

Adopted under notice filed as WSR 12-09-090 on April 18, 2012.

Changes Other than Editing from Proposed to Adopted Version: The department made small changes to two of the rules at the request of the fish and wildlife commission. These changes do not affect the underlying meaning of the rules. WAC 220-80-020 was changed to add "fish and wildlife commission" to the definition of "department." WAC 220-80-060 was changed to add a qualifier that states that a person must supply his or her e-mail address in a public records request only if the requestor has an e-mail address.

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 10, Repealed 13.

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 6, 2012.

Miranda Wecker, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-010 ((Purpose)) Public records—Generally. ~~The purpose of this chapter ((shall be to ensure compliance by the department of fisheries with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25-32 of that act, dealing with public records)) is to provide public records rules and procedures as required by the Public Records Act, chapter 42.56 RCW. The rules in this chapter provide information to persons wishing to request access to public records of the department, and the rules establish processes for both requestors and department staff that are designed to best assist members of the public in obtaining such access.~~

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-020 ((Definitions)) Department description and authority. (1) ~~((Public records. "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.~~

~~(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.~~

~~(3) Department of fisheries. The department of fisheries is the agency delegated by the legislature to preserve, protect, perpetuate and manage the food fish and shellfish in the waters of the state and the offshore waters thereof. The department of fisheries shall hereinafter be referred to as the "department." Where appropriate, the term "department" also refers to the staff and employees of the department of fisheries.)~~ Throughout this chapter, "department" is used to mean the Washington fish and wildlife commission and the Washington department of fish and wildlife. The term department may also include the staff and employees of the department of fish and wildlife, where indicated by context.

(2) The department of fish and wildlife is the agency to which the legislature has delegated responsibility for preserving, protecting, perpetuating, and managing fish and wildlife in the lands and waters of the state, including offshore waters.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-030 Description of department organization ((of the department of fisheries)). ((Department. The department is a line staff agency. The administrative office of the department and its staff are located at Room 115, General Administration Building, Olympia, Washington 98504.)) The department's central office is located at 1111 Washington Street S.E., Olympia, WA 98501-1091. The mailing address of the department's central office is P.O. Box 43200, Olympia, WA 98504-3200. The department's telephone number is 360-902-2200. The fax number is 360-902-2156.

The department has other offices, including six regional offices, as follows:

Eastern Washington - Region 1 Office
2315 North Discovery Place
Spokane Valley, WA 99216-1566
Telephone: 509-892-1001
Fax: 509-921-2440

North Central Washington - Region 2 Office
1550 Alder Street N.W.
Ephrata, WA 98823-9699
Telephone: 509-754-4624
Fax: 509-754-5257

South Central Washington - Region 3 Office
1701 South 24th Avenue
Yakima, WA 98902-5720
Telephone: 509-575-2740
Fax: 509-575-2474

North Puget Sound - Region 4 Office
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1541
Telephone: 425-775-1311
Fax: 425-338-1066

Southwest Washington - Region 5 Office
2108 Grand Boulevard
Vancouver, WA 98661
Telephone: 360-696-6211
Fax: 360-906-6776

Coastal Washington - Region 6 Office
48 Devonshire Road
Montesano, WA 98563
Telephone: 360-249-4628
Fax: 360-664-0689

Current contact information is also available at the department's web site at <http://wdfw.wa.gov>.

AMENDATORY SECTION (Amending Order 77-14, filed 4/15/77)

WAC 220-80-040 ((Operations and procedures.)) **Public records officer.** ((The department is operated with a director as its head assisted by a deputy director. The department is divided into four operational programs. Each program is supervised by an assistant director.

The department handles numerous functions affecting the public, as described in RCW 75.08.012 and 75.08.080.

To accomplish these goals the director formulates regulations as provided for by the Administrative Procedure Act (chapter 34.04 RCW.)) (1) The department's public records officer:

(a) Receives all public records requests made to the department;

(b) Provides assistance to persons seeking department public records;

(c) Oversees the department's compliance with the Public Records Act, including locating, processing, and releasing records responsive to public records requests;

(d) Creates and maintains an index of certain department public records, to the extent required by RCW 42.56.070(5); and

(e) Prevents the fulfillment of public records requests from causing excessive interference with essential functions of the department.

(2) The public records officer can be contacted at:

Public Records Officer
Department of Fish and Wildlife
Office Location:
Natural Resources Building, 5th Floor
1111 Washington Street S.E.
Olympia, WA 98501-1091
Mailing Address:
P.O. Box 43200
Olympia, WA 98504-3200

Current contact information is also available at the department's web site at <http://wdfw.wa.gov>.

(3) The public records officer may designate one or more department staff to carry out the responsibilities set forth in subsection (1) of this section; and other staff may process public records requests. Therefore, use of the term public records officer in this chapter may include the public records officer's designee(s) and/or any other staff assisting in processing public records requests, where indicated by context.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-050 Public records available. ((All public records of the department, as defined in WAC 220-80-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973 and WAC 220-80-100.)) (1) Some records may be available on the department's web site at <http://wdfw.wa.gov>. Requestors are encouraged to search for and view records on the department's web site in lieu of or prior to making a public records request.

(2) Public records are available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Based on other demands on the agency and/or the nature of the requested records, the public records officer may limit the hours during which particular public records are available for inspection and copying.

(3) Records must be inspected at the offices of the department and may not be removed from department offices. The majority of public records are located at the department's central office, although some may be located in other locations, including the regional offices.

(4) Requestors should contact the public records officer to determine the location and availability of records.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-060 Requests for public records ((officer)). ~~((The department's public records shall be the responsibility of the public records officer designated by the department. The person so designated shall be located in the administrative office of the department. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973:))~~ (1) Any person wishing to inspect or copy public records of the department must make the request in writing on the department's request form, or by letter, fax, or e-mail. The written request must be addressed and sent to the public records officer and include the following information:

- (a) Name of the requestor;
- (b) Address of the requestor;
- (c) Other contact information, including telephone number and e-mail address, if the requestor has one;
- (d) Identification of the public records sought, in a form or description that is adequate for the public records officer to identify and locate the records; and
- (e) The date and time of day of the request.

(2) If the requestor wishes to have copies of the records made, whether hard copy or electronic, instead of inspecting them, he or she must so indicate in the request and must either make a deposit for the cost of copying the records or make arrangements to pay for copies of the records.

(3) A public records request form is available to requestors at the office of the public records officer and at the department's web site at <http://wdfw.wa.gov>.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-080 Processing requests for public records. ~~((In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained by mem-~~

~~bers of the public, upon compliance with the following procedures:~~

~~(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to the public records officer or to any member of the department's administrative office staff if the public records officer is not available, at the administrative office of the department during customary office hours as described in WAC 220-80-070. The request shall include the following information:~~

- ~~(a) The name of the person requesting the record;~~
- ~~(b) The time of day and calendar date on which the request was made;~~
- ~~(c) The nature and purpose of the request;~~
- ~~(d) A reference to the requested record as it is described within the current index maintained by the records officer, or an appropriate description of the record requested, if the requested matter is not identifiable by reference to the department's current index;~~

~~(2) It shall be the obligation of the public records officer or staff member to whom the request is referred to assist the member of the public in appropriately identifying the public record requested.))~~ (1) **Order of processing public records requests**. The public records officer will process requests in the order allowing the greatest number of requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request**. Within five business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) Send the copies to the requestor if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon;
- (c) Provide a reasonable estimate of when records will be available;

(d) Request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. The public records officer may revise the estimate of when records will be available if an estimate was given; or

- (e) Deny the request.

(3) **If no response is received**. If the public records officer does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to ensure that the department received the request.

(4) **Protecting the rights of others**. In the event that the requested public records contain information that may affect rights of others and may, therefore, be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request or, if necessary, seek a court order to prevent or limit the disclosure. The notice to the affected persons may include a copy of the request.

(5) **Records exemption from disclosure**. Some records are exempt from disclosure, in whole or in part, as provided in chapter 42.56 RCW and in other statutes. If the depart-

ment believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the records or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) Inspections of records.

(a) Consistent with other demands, the department will promptly provide space to inspect public records it has assembled in response to a properly submitted public records request. No member of the public may remove a document from the viewing area or disassemble or alter any document. If, after inspecting a record or records, the requestor wishes to receive a copy of a particular record or records, he or she should so indicate to the public records officer. Copies will be provided pursuant to subsection (7) of this section.

(b) The requestor must inspect the assembled records within thirty days of the department's notification to him or her that the records are available for inspection or copying. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to inspect the records. If the requestor fails to inspect the records within the thirty-day period or make other arrangements, the department may close the request and refile the assembled records. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(7) Providing copies of records.

(a) Upon request, the department will provide copies of requested records. Copies may be provided in either hard copy or electronic format, as requested. The cost for copies is set forth in WAC 220-80-090. If a requestor wishes to obtain a copy of a particular record or records after inspecting records, he or she should so indicate to the public records officer, who will make the requested copies or arrange for copying.

(b) Copies may be mailed or e-mailed to the requestor, or made available for pickup at the department's offices. If the copies are available for pickup at the department's offices, the requestor must pay for the copies within thirty days of the department's notification to him or her that the copies are available for pickup. The department will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the department to make arrangements to pay for and pick up the copies. If the requestor fails to pay for or pick up the copies within the thirty-day period, or fails to make other arrangements, the department may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(8) **Electronic records.** The process for requesting electronic public records is the same as for requesting paper pub-

lic records. When a person requests records in an electronic format, the public records officer will provide the nonexempt records, or portions of such records that are reasonably locatable, in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer may make the records available for inspection, or provide copies of the records in installments if he or she reasonably determines it would be practical to provide the records in that manner. The requestor must inspect the installment of assembled records, or pay for and pick up records if copies of the records are made available for pick up at the department's offices, within thirty days of the department's notification to him or her that records are available for inspection or are ready for pickup. If the requestor fails to inspect the installment of copies within the thirty-day period, fails to pay for and pick up the installment of copies within the thirty-day period, or fails to make other arrangements, the public records officer may stop searching for the remaining records and close the request.

(10) **Closing a withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will indicate that the department has completed a diligent search for the requested records and has made any located, nonexempt records available for inspection. Then the public records officer will close the request.

(11) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the department has completed a diligent search for the requested records and has made any located, nonexempt records available for inspection. Thereafter, the public records officer may close the request.

(12) **Later discovered documents.** If, after the department informs the requestor that it has provided all available records, the department becomes aware of additional responsive documents that existed at the time of the request, the department will promptly inform the requestor of the additional documents and make them available for inspection or provide copies on an expedited basis.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-090 (~~Copying~~) Costs of providing public records. (1) There is no fee (~~shall be charged~~) for (~~the inspection of~~) inspecting public records.

(2) The department (~~shall charge a fee per page of copy for providing copies of public records as follows:~~

<u>Loose leaf material up to 11" x 18" (Xerox copy)</u>	<u>\$0.10 per sheet</u>
<u>Bound material (Xerox copy)</u>	<u>0.15 per sheet</u>

Blueprints and material over 11" x 18" (Bruning)	1.00 per sheet
Microfilm or microfiche (paper copies)	0.10 per sheet

These charges are the approximate amounts necessary to reimburse the department for its actual costs.)) charges fifteen cents per sheet for paper copies of documents up to paper size 11" x 18". The department will not charge sales tax when it makes copies of public records.

(3) The department may charge costs for providing copies of records in electronic format based on the department's actual costs and/or based on outside vendor rates for copying the same or similar records. The department incurs actual costs in scanning a paper-only record into an electronic format and may charge ten cents per page for electronic copies of scanned paper-only records.

(4) **Deposits and payments for copies and installments of copies.** Before beginning to make copies of requested records, the public records officer may require a deposit of up to ten percent of the estimated costs of copying. The public records officer may also require the payment of any outstanding balance of copying costs prior to providing the copies, or the payment of any outstanding balance of the copying costs for an installment of copies before providing the installment. If payment for an installment of copies is not received within thirty days of the department's notification to the requestor that the copies are available, the public records officer may stop searching for the remaining records and close the request.

(5) **Costs of mailing.** The department may also charge the actual costs of mailing, including the cost of the shipping container.

(6) **Payment.** Payment may be made by cash, check, or money order to the Washington department of fish and wild-life.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-100 Exemptions. (1) ((The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 220-80-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) The following records are exempt:

(a) Personal information in files maintained for the department's members of the extent that disclosure would violate their rights to privacy.

(b) Specific intelligence information and specific investigative files compiled by the department, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(c) Information revealing the identity of persons who file complaints with the department, except as the complainant may authorize.

(d) Test questions, scoring keys, and other examination data.

(e) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency rel-

ative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired; but in no event shall disclosure be denied for more than three years after the appraisal.

(f) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies not be exempt when publicly cited by an agency in connection with any agency action.

(g) Records which are relevant to a controversy to which the department is, or could reasonably expect to be, a party, but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(h) Lists or records of purchasers of licenses issued by the department. Provided, That such may be made available for bona fide noncommercial purposes if the person requesting such lists or records provides a sworn affidavit containing an outline of the usage of such list, the identity of the sponsor, and an affirmation that such lists or records will be adequately safeguarded so as to prevent their use for any commercial purpose.

(i) All catch, tax or fiscal records where release of such information will conflict with any individual or company's right to privacy.

(j) Valuable formulae, designs, drawings and research data obtained by department within five years of the request for disclosure when disclosure would produce private gain and public loss.

(k) Any other information which is exempt from public inspection under any provision of Initiative 276 or any other applicable law.

(3) In addition, pursuant to section 26, chapter 1, Laws of 1973, the department reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.)) The Public Records Act exempts a number of types of records from public disclosure (see chapter 42.56 RCW).

(2) Records are also exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions outside the Public Records Act, which restrict the availability of some records held by the department:

(a) Privileged communication under RCW 5.60.060; and

(b) Criminal records history under chapter 10.97 RCW.

(3) The department is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending Order 1104, filed 11/26/73)

WAC 220-80-110 Review of denials of public records requests. (1) Petition for internal administrative review of

denial of access. Any person who objects to the initial denial or partial denial of a records request ((for a public record)) may petition ((for prompt review of such decision by tendering a written request for review)) in writing (including e-mail) to the public records officer for a review of that decision. The ((written request shall specifically refer to)) petition must include a copy of the written statement by the public records officer ((or other staff member which constituted or accompanied the denial)) denying the request.

(2) ((Immediately after receiving a written request for review of a decision denying a public record.)) **Consideration of petition for review.** The public records officer ((or other staff member denying the request shall refer it)) will promptly provide the petition and any other relevant information to the director of the department. The director or ((his)) designee ((shall)) will immediately consider the ((matter)) petition and either affirm or reverse ((such)) the denial((. The request shall be returned with a final decision)) within two business days following the ((original denial)) department's receipt of the petition, or within such other time as the department and the requestor mutually agree to.

(3) ((Administrative remedies shall not be considered exhausted until the department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.)) **Review by the attorney general's office.** Pursuant to RCW 42.56-.530, if the department denies a requestor access to public records because it claims the record is exempt, in whole or in part, from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules for such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial, regardless of any internal administrative appeal.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-80-070 Office hours.
- WAC 220-80-120 Protection of public records.
- WAC 220-80-130 Records index.
- WAC 220-80-140 Address for request.
- WAC 220-80-150 Use of record request form.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 232-12-800 Purpose.
- WAC 232-12-804 Description of central and field organization of the department of game.
- WAC 232-12-807 Operations and procedures.

- WAC 232-12-810 Public records officer.
- WAC 232-12-813 Copying.
- WAC 232-12-814 Requests for public records.
- WAC 232-12-820 Review of denials of public records requests.
- WAC 232-12-824 Records index.

**WSR 12-15-015
PERMANENT RULES
HEALTH CARE AUTHORITY**

(Medicaid Program)

[Filed July 10, 2012, 11:25 a.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: The proposed rules require providers of durable medical equipment (DME), supplies, and related services to be medicare-enrolled providers in order to also receive payment under Washington state's medicaid program. This rule applies to newly enrolled DME providers and current DME providers upon revalidation of their enrollment in accordance with 42 C.F.R. 455.414.

Citation of Existing Rules Affected by this Order: Amending WAC 182-502-0010 and 182-543-2000.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Affordable Care Act (ACA) - 76 Fed. Reg. 5862, 42 C.F.R. Parts 405, 424, 447, 455, 457, and 498.

Adopted under notice filed as WSR 12-10-067 on May 1, 2012.

Changes Other than Editing from Proposed to Adopted Version: WAC 182-543-2000 (1)(c) DME and related supplies, prosthetics, orthotics, medical supplies and related services—Eligible providers and provider requirements, removed the requirement for prosthetics and orthotics providers to be enrolled with medicare.

(c) Prosthetics and orthotics providers who are enrolled with medicare and licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthetics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

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 2, Repealed 0.

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

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 10, 2012.

Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0010 When the ~~((department))~~ medicaid agency enrolls. (1) Nothing in this chapter obligates the ~~((department))~~ agency to enroll any eligible ~~((healthcare))~~ health care professional, ~~((healthcare))~~ health care entity, supplier or contractor of service who requests enrollment.

(2) To enroll as a provider with the ~~((department))~~ medicaid agency, a ~~((healthcare))~~ health care professional, ~~((healthcare))~~ health care entity, supplier or contractor of service must, on the date of application:

(a) Be currently licensed, certified, accredited, or registered according to Washington state laws and rules. Persons or entities outside of Washington state, see WAC ~~((388-502-0120))~~ 182-502-0120;

(b) Be enrolled with medicare, when required in specific program rules;

(c) Have current professional liability coverage, individually or as a member of a group;

~~((e))~~ (d) Have a current federal drug enforcement agency (DEA) certificate, if applicable to the profession's scope of practice;

~~((d))~~ (e) Meet the conditions in this chapter and other chapters regulating the specific type of ~~((healthcare))~~ health care practitioner;

~~((e))~~ (f) Sign, without modification, a core provider agreement (CPA) and debarment form ~~((DSHS))~~ 09-048 or a contract with the ~~((department))~~ agency. (Note: Section 13 of the CPA, ~~((DSHS))~~ 09-048 (REV. 08/2005), is hereby rescinded. The ~~((department))~~ medicaid agency and each provider signing a core provider agreement will hold each other harmless from a legal action based on the negligent actions or omissions of either party under the terms of the agreement.);

~~((f))~~ (g) Agree to accept the payment from the ~~((department))~~ medicaid agency as payment in full (in accordance with 42 C.F.R. § 447.15 acceptance of state payment as payment in full and WAC ~~((388-502-0160))~~ 182-502-0160 billing a client);

~~((g))~~ (h) Fully disclose ownership and control information requested by the ~~((department))~~ agency. If payment for services is to be made to a group practice, partnership, or corporation, the group, partnership, or corporation must enroll and obtain a CPA number to be used for submitting claims as the billing provider. All owners must be identified and fully disclosed in the application; and

~~((h))~~ (i) Have screened employees and contractors with whom they do business prior to hiring or contracting to assure that employees and contractors are not excluded from receiving federal funds as required by 42 U.S.C. 1320a-7 and 42.U.S.C. 1320c-5.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-543-2000 DME and related supplies, prosthetics, orthotics, medical supplies and related services—Eligible providers and provider requirements. (1) The ~~((department))~~ medicaid agency pays qualified providers for durable medical equipment (DME) and related supplies, prosthetics, orthotics, medical supplies, repairs, and related services on a fee-for-service basis as follows:

(a) DME providers who are enrolled with medicare for DME and related repair services;

(b) Medical equipment dealers who are enrolled with medicare, pharmacies who are enrolled with medicare, and home health agencies under their national provider indicator (NPI) for medical supplies;

(c) Prosthetics and orthotics providers who are licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthetics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

(d) Physicians who provide medical equipment and supplies in the office. The ~~((department))~~ agency may pay separately for medical supplies, subject to the provisions in the department's resource-based relative value scale fee schedule; and

(e) Out-of-state orthotics and prosthetics providers who meet their state regulations.

(2) Providers and suppliers of durable medical equipment (DME) and related supplies, prosthetics, orthotics, medical supplies and related items must:

(a) Meet the general provider requirements in chapter ~~((388-502))~~ 182-502 WAC;

(b) Have the proper business license and be certified, licensed and/or bonded if required, to perform the services billed to the department;

(c) Have a valid prescription;

(i) To be valid, a prescription must:

(A) Be written on the ~~((department's))~~ agency's Prescription Form ~~((DSHS))~~ 13-794. The ~~((department's))~~ agency's electronic forms are available on-line at: ~~((http://www.dshs.wa.gov/msa/forms/eforms.html;))~~ http://hrsa.dshs.wa.gov/mpforms.shtml;

(B) Be written by a physician, advanced registered nurse practitioner (ARNP), or physician's assistant certified (PAC);

(C) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the supply, equipment, or device. Prescriptions must not be back-dated;

(D) Be no older than one year from the date the prescriber signs the prescription; and

(E) State the specific item or service requested, diagnosis, estimated length of need (weeks, months, or years), and quantity.

(ii) For dual eligible medicare/medicaid clients when medicare is the primary payer and the department is being billed for the co-pay and/or deductible only, subsection (2)(a) of this section does not apply.

(d) Provide instructions for use of equipment;

(e) Furnish only new equipment to clients that includes full manufacturer and dealer warranties. See WAC ((388-543-2250(3))) 182-543-2250(3);

(f) Furnish documentation of proof of delivery, upon ((department)) agency request (see WAC ((388-543-2200)) 182-543-2200); and

(g) Bill the ((department)) agency using only the allowed procedure codes listed in published DME and related supplies, prosthetics and orthotics, medical supplies and related items ((billing instructions)) medicaid provider guides.

WSR 12-15-019
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-140—Filed July 10, 2012, 5:12 p.m., effective August 10, 2012]

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

Purpose: Amends WAC 220-95-100 Sea urchin license reduction program and 220-95-110 Sea cucumber license reduction program, to implement a permit buy-back program to reduce the number of commercial sea urchin permits to twenty and sea cucumber permits to twenty.

Citation of Existing Rules Affected by this Order: Amending WAC 220-95-100 and 220-95-110.

Statutory Authority for Adoption: RCW 77.12.047, 77.70.150, and 77.70.190.

Adopted under notice filed as WSR 12-09-053 on April 16, 2012.

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

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

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

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

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

Date Adopted: June 15, 2012.

Miranda Wecker, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 07-88, filed 5/18/07, effective 6/18/07)

WAC 220-95-100 Sea urchin license reduction program. In order to provide for economic stability in the commercial sea urchin fishery, and in accordance with RCW 77.70.150, the department establishes the sea urchin license reduction program (program).

(1) Eligibility: All persons who currently hold a sea urchin commercial fishery license are eligible to offer their license(s) for purchase ((under the program)) by the department.

(2) ((Method of purchase: The department will rank offers to sell sea urchin licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.150, with a maximum purchase price of \$11,000 per license.))

((3)) Offer process: The department will accept sales offers ((to sell)) beginning August 1st of each year and will purchase licenses based on the funds that are available on ((the following)) September 30th of that same year.

((4)) (3) Selection process: The department will ((select licenses to be purchased beginning with the lowest offer to sell, and continuing)) rank sales offers from the lowest offer to the highest. It will purchase the lowest-cost licenses first, then the next lowest, and continue until there are insufficient funds to ((purchase a)) complete a purchase on an offer. If two or more licenses are offered at the same price, selection will be by random draw. To purchase licenses, the department will use the funds made available under RCW 77.70.150, with a maximum purchase price of twenty thousand dollars per license.

((5)) (4) License reduction process: ((Upon selection,)) When the department purchases a license, it will issue a warrant (a check from the department) in the amount of the offer to the license holder ((in the amount of the offer)). On the date that the department mails the warrant ((is mailed)) to the license holder's mailing address ((of the license holder as shown in their)) on file with the department ((licensing file, the department)), it will void the license. ((Upon receipt of)) When the license holder receives the warrant, ((the license holder is to)) he or she must return ((the)) his or her commercial sea urchin license cards to the department.

((6)) (5) No prohibition on reentry: License holders who sell a license under the program may reenter the sea urchin commercial fishery if they purchase a license.

((7)) (6) Program termination: This program terminates when the number of sea urchin commercial fishery licensees is reduced to ((twenty-five)) twenty.

AMENDATORY SECTION (Amending Order 07-88, filed 5/18/07, effective 6/18/07)

WAC 220-95-110 Sea cucumber license reduction program. In order to provide for economic stability in the commercial sea cucumber fishery, and in accordance with RCW 77.70.190, the department establishes the sea cucumber license reduction program (program).

(1) Eligibility: All persons who currently hold a sea cucumber commercial fishery license are eligible to offer their license(s) for purchase ((under the program)) by the department.

(2) ((Method of purchase: The department will rank offers to sell sea cucumber licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.190, with a maximum purchase price of \$15,000 per license.))

~~((3))~~ Offer process: The department will accept sales offers ~~((to sell))~~ beginning August 1st of each year and will purchase licenses based on the funds that are available on ~~((the following))~~ September 30th of that same year.

~~((4))~~ (3) Selection process: The department will ~~((select licenses to be purchased beginning with the lowest offer to sell, and continuing))~~ rank sales offers from the lowest-cost licenses first, then the next lowest, and continue until there are insufficient funds to ~~((purchase a))~~ complete a purchase on an offer. If two or more licenses are offered at the same price, selection will be by random draw. To purchase licenses, the department will use the funds made available under RCW 77.70.190, with a maximum purchase price of sixty thousand dollars per license.

~~((5))~~ (4) License reduction process: ~~((Upon selection,))~~ When the department purchases a license, it will issue a warrant (a check from the department) in the amount of the offer to the license holder ~~((in the amount of the offer)).~~ On the date that the department mails the warrant ~~((is mailed))~~ to the license holder's mailing address ~~((of the license holder as shown in their))~~ on file with the department ~~((licensing file, the department)),~~ it will void the license. ~~((Upon receipt of))~~ When the license holder receives the warrant, ~~((the license holder is to))~~ he or she must return ~~((the))~~ his or her commercial sea cucumber license cards to the department.

~~((6))~~ (5) No prohibition on reentry: License holders who sell a license under the program may reenter the sea cucumber commercial fishery if they purchase a license.

~~((7))~~ (6) Program termination: This program terminates when the number of sea cucumber commercial fishery licensees is reduced to ~~((twenty five))~~ twenty.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 11.

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 11.

Date Adopted: July 11, 2012.

Mike Kreidler
Insurance Commissioner

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 284-199-001	Scope.
WAC 284-199-005	Definitions.
WAC 284-199-010	Acknowledgment.
WAC 284-199-015	Aggregation of data.
WAC 284-199-020	Survey instrument.
WAC 284-199-025	Submission.
WAC 284-199-030	Resubmission.
WAC 284-199-035	Validation.
WAC 284-199-040	Data retention.
WAC 284-199-045	Data fields.
WAC 284-199-050	Contact person.

**WSR 12-15-020
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2012-11—Filed July 11, 2012, 7:30 a.m., effective August 11, 2012]

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

Purpose: This rule repeals chapter 284-199 WAC, Health insurance market performance data call rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-199-001, 284-199-005, 284-199-010, 284-199-015, 284-199-020, 284-199-025, 284-199-030, 284-199-035, 284-199-040, 284-199-045, and 284-199-050.

Statutory Authority for Adoption: RCW 48.02.060, chapter 172, Laws of 2010.

Adopted under notice filed as WSR 12-10-078 on May 2, 2012.

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.

**WSR 12-15-025
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed July 11, 2012, 10:20 a.m., effective August 11, 2012]

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

Purpose: The proposed changes:

(a) Add a definition for a "single district" on-line provider.

(b) Add a definition for an "affiliate" provider.

(c) Add a streamlined approval process for single district and affiliate providers.

(d) Provide a mechanism for a single district provider to transition to a multidistrict provider when the program's annual average headcount exceeds ten percent nonresident student enrollment.

(e) Provide for immediate approval of single district and affiliate providers who meet the stated criteria.

(f) Clarify course requirements that relate to chapter 392-410 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 392-502-010, 392-502-020, and 392-502-030.

Statutory Authority for Adoption: Chapter 28A.250 RCW.

Adopted under notice filed as WSR 12-11-094 on May 21, 2012.

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 3, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, 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 3, Repealed 0.

Date Adopted: June 26, 2012.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-010 Definitions. As used in this chapter, the term:

(1) "Multidistrict on-line provider" means:

(a) A private or nonprofit organization that enters into a contract with a school district to provide on-line courses or programs to K-12 students from more than one school district;

(b) A private or nonprofit organization or a school district that enters into contracts with multiple school districts to provide on-line courses or programs to K-12 students from those districts; or

(c) Except as provided in (c)(i) and (ii) of this subsection, a school district that provides on-line courses or programs to students who reside outside the geographic boundaries of the school district.

(i) "Multidistrict on-line provider" does not include a school district on-line learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225.

(ii) "Multidistrict on-line provider" also does not include regional on-line learning programs that are jointly developed and implemented through an interdistrict cooperative program between two or more school districts or between one or more school districts and an educational service district, unless the annual average headcount of students who reside outside the geographic boundaries of those school districts and who are enrolled in the regional on-line program is ten percent or more of the total program enrollment headcount.

Any agreement establishing such a program must address, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2) "On-line course" means a course in which:

(a) More than half of the course content is delivered electronically using the internet or other computer-based methods; and

(b) More than half of the teaching is conducted from a remote location through an on-line course learning management system or other on-line or electronic tools.

An on-line course may be delivered to students at school as part of the regularly scheduled school day. An on-line course also may be delivered to students, in whole or in part, independently from a regular classroom schedule. On-line courses delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.

(3) "On-line school program" means a school program that:

(a) Offers courses or grade-level course work that are delivered primarily electronically using the internet or other computer-based methods;

(b) Offers courses or grade-level course work that are taught by a teacher primarily from a remote location using on-line or other electronic tools. Students enrolled in an on-line program may have access to the teacher synchronously, asynchronously, or both;

(c) Offers a sequential set of on-line courses or grade-level course work that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(d) Has an on-line component of the program with on-line lessons and tools for student and data management.

An on-line school program may be delivered to students at school as part of the regularly scheduled school day. An on-line school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule. On-line programs delivered to students independently of a regular classroom schedule must comply with RCW 28A.150.262 and WAC 392-121-182 to qualify for state basic education funding.

(4) "On-line provider" means any provider of an on-line course or program, multidistrict on-line providers, all school district on-line learning programs, and all regional on-line learning programs.

(5) "Accrediting organizations" means the designated bodies identified by the superintendent of public instruction after consultation with the Washington council for on-line learning and published on the superintendent of public instruction web site. Accrediting organizations are for providers to use to satisfy the accreditation qualification for being an approved on-line provider.

(6) "Affiliate provider" means a school district that:

(a) Provides on-line courses offered by one or more approved on-line provider that provides the course content.

the technology platform, and the instructional component of the courses; and

(b) Does not modify the content or instruction of the approved provider's offerings. An affiliate provider may not offer to its students any on-line course or courses that are provided by a nonapproved on-line provider.

(7) "Single-district provider" means a school district on-line provider that is not a multidistrict on-line provider or an affiliate provider.

(8) For the purposes of this section, "primarily" is defined as more than half.

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-020 On-line provider approval process and timeline. (1) This section sets forth the process that on-line providers must follow to be approved in accordance with RCW 28A.250.020. On-line providers must be approved by the superintendent of public instruction for districts to collect state funding, to the extent otherwise allowed by state law, for courses offered by those providers in accordance with WAC 392-502-080.

(2) ~~((Any multidistrict on-line provider that was approved by the digital learning commons or accredited by the Northwest accreditation commission before July 26, 2009, and meets the Washington state teacher certification requirements is exempt from the initial approval process until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements including the approval assurances and criteria.~~

~~(3))~~ (3) If at the end of the 2011-12 school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a school district or regional on-line learning program and are enrolled in a school district on-line program or regional on-line learning program increases to ten percent or more of the total on-line program enrollment headcount, the program:

(a) Must seek approval prior to November 1, 2013.

(b) May continue operating during the 2012-13 school year, but not the following school year unless approved as a multidistrict on-line provider.

~~((4))~~ (3) Prior to the 2012-13 school year, multidistrict on-line providers seeking approval must submit an application for approval. The application form is outlined on the superintendent of public instruction web site. The superintendent or his or her designee will review submitted applications for compliance with the assurances and designated approval criteria set forth in WAC 392-502-030 and must meet or exceed the acceptable defined score.

(4) Beginning with the 2013-14 school year, all on-line providers seeking approval must apply to the superintendent of public instruction for approval as follows:

(a) Multidistrict on-line providers must submit an application as outlined on the superintendent of public instruction web site which will be reviewed for compliance with the ((requested assurances and)) designated approval criteria and must meet or exceed the acceptable defined score. Multidistrict on-line providers must comply with the superintendent of public instruction's required assurances.

(b) Affiliate providers must submit an affiliate provider application as outlined on the superintendent of public instruction web site. Affiliate providers must also comply with the superintendent of public instruction's required assurances.

(c) Single-district providers must submit a single-district provider application as outlined on the superintendent of public instruction web site. Single-district providers must also comply with the superintendent of public instruction's required assurances.

If, at the end of a school year, the annual average headcount for that school year of students who reside outside the geographic boundaries of a single-district provider and are enrolled in an on-line program offered by the single-district provider increases to ten percent or more of the total program enrollment headcount, the program shall be required to apply as a multidistrict on-line provider in the next approval cycle. The program may continue operating the year of the required approval review, but not the following school year unless approved as a multidistrict on-line provider.

(5) The superintendent of public instruction makes decisions regarding approval of multidistrict provider applications submitted pursuant to this chapter no later than November 1st of each year. ~~((An))~~ A multidistrict on-line provider's approval status takes effect the beginning of the school year following the date of the superintendent's approval of the on-line provider's application. Single-district and affiliate providers may apply at any point, and, subject to the requirements of approval, can be approved immediately by the superintendent of public instruction.

(6) For the 2011-12 school year, final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by February 15, 2012.

(7) Beginning with the 2012-13 school year, any proposed modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction web site by October 1st of each year. The superintendent will accept feedback from on the proposed modifications from any interested parties prior to November 1st of each year. Any final modifications to the conditions for approval, required assurances, approval criteria, and application forms will appear on the superintendent of public instruction's web site by January 1st of each year.

AMENDATORY SECTION (Amending WSR 12-03-067, filed 1/12/12, effective 2/12/12)

WAC 392-502-030 Approval assurances and criteria.

(1) This section sets forth the assurances and criteria that on-line providers must meet to be approved under this chapter.

(a) To be approved, on-line providers must provide the following assurances to the superintendent of public instruction:

(i) The on-line provider is accredited through an accrediting body as defined in WAC 392-502-010 and agrees to maintain accredited status for the duration of the approval period.

(ii) Each course and program the on-line provider offers is aligned with at least eighty percent of the current applicable grade/subject area of Washington state standards. For courses with content that is not included in state standards, the on-line provider's courses are aligned with at least eighty percent of nationally accepted content standards set for the relevant subjects. On-line providers must submit information to the superintendent regarding the standards alignment and the standards aligned.

(iii) All instruction delivered to Washington state students is delivered by Washington state certificated teachers who are assigned to instruct courses in a manner which meets the "highly qualified" definition under the No Child Left Behind Act and in a manner which meets the requirements set forth in chapter 181-82 WAC.

(iv) For on-line providers that offer high school courses, the courses offered by the on-line provider must be eligible for high school credit pursuant to WAC 180-51-050.

(v) All of the on-line provider's current and future courses in the ~~((following))~~ applicable areas meet the credit/content requirements ~~((as provided for in WAC 392-410-120 (Washington state history and government requirements), WAC 392-410-135 (Physical education—Grade school and high school requirement), and WAC 392-410-140 (Sexual health education—Definition—Optional course or subject matter—Excusal of students))~~) in chapter 392-410 WAC.

(vi) All advanced placement courses offered by the on-line provider have been approved in accordance with the college board advanced placement course audit. For advanced placement courses not yet offered at the time of application, the on-line provider must assure that those courses will be approved by the college board prior to offering those courses to students.

(vii) The on-line provider's data management systems ensure all student information remains confidential, as required by the Family Educational Rights and Privacy Act of 1974, as amended.

(viii) The on-line provider's web systems and content meet accessibility conformance levels specified in the list of approved provider assurances on the office of superintendent of public instruction's web site.

(ix) The on-line provider provides all information as directed or as requested by the office of superintendent of public instruction, the secretary for the department of education, and other federal officials for audit, program evaluation compliance, monitoring, and other purposes and to maintain all records for the current year and three previous years.

(x) The on-line provider informs the office of superintendent of public instruction in writing of any significant changes to the program including, but not limited to, changes in assurances, program description, fiscal status, or ownership.

(xi) The on-line provider upholds any pertinent federal or state laws, rules or regulations, in the delivery of the on-line courses or programs.

(xii) The on-line provider retains responsibility for the quality of courses and content offered, regardless of any third-party contractual arrangements, partnerships or consor-

tia, contributing to the content or delivery of the on-line courses or programs.

(xiii) The on-line provider complies with the state assessment requirements including, but not limited to, the requirements of chapter 28A.655 RCW and WAC 392-121-182, as applicable.

(xiv) All of the provider's current and future career and technical education (CTE) courses are aligned to Washington state CTE program standards and have been approved by the office of superintendent of public instruction's CTE office. CTE courses must be taught by a Washington certificated teacher who is also CTE-certificated in the subject area of the course.

(xv) The on-line provider agrees to abide by any additional assurances required by the superintendent of public instruction.

(b) Multidistrict on-line providers must meet the following approval criteria by a preponderance of evidence submitted with the on-line provider's application:

(i) Course content and instructional design incorporating course goals and outcomes, materials and content organization, and student engagement.

(ii) Classroom management incorporating grading and privacy policies, internet etiquette, and expectations for communications.

(iii) Student assessment incorporating various types, frequent feedback, and appropriateness for the on-line learning environment.

(iv) Course evaluation and management incorporating strategies for obtaining feedback about the courses/programs and processes for quality assurance and updating content.

(v) Student support incorporating policies and systems to enhance the students' learning experience and their success.

(vi) School-based support incorporating strategies and systems to allow school-based staff to support student success.

(vii) Technology elements, requirements and support including descriptions and ease of navigation.

(viii) Staff development and support including training and on-line instructor performance reviews conducted on a planned and regularly scheduled basis.

(ix) Program management including timeliness and quality of teachers' responses to students, handling of fees, prompt distribution of materials and processing of enrollments, and handling fees and payments.

(x) The superintendent may require additional approval criteria pursuant to WAC 392-502-080.

(2) After review by the on-line learning advisory committee, the approval criteria with explanations and suggested supporting evidence will be posted on the superintendent of public instruction web site on or before the date the application is made available.

(3) On-line provider's application will be reviewed by reviewers selected by the superintendent of public instruction for their experience and expertise. The reviewers will be provided orientations and training to review and score the on-line provider applications using the approval criteria and scoring protocols.

(4) ~~((Prior to the 2013-14 school year, when developing local or regional))~~ Single-district provider on-line ~~((learn-~~

ing)) programs(~~(school districts))~~) must incorporate the approval criteria developed by the superintendent of public instruction into the program design.

WSR 12-15-028
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 11, 2012, 3:54 p.m., effective August 11, 2012]

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

Purpose: These rule revisions update the calculation of the state-required K-12 certificated instructional staff ratio (46:1000) compliance, pursuant to ESHB 2065, section 10 (2011 legislative session). Specifically, these revisions:

- Exclude district students enrolled in alternative learning experience programs;
- Exclude district basic education certificated instructional staff assigned to alternative learning experience programs.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-127-011; and amending WAC 392-127-015, 392-127-070, and 392-127-090.

Statutory Authority for Adoption: RCW 28A.150.100 and 28A.150.290(1).

Adopted under notice filed as WSR 12-11-019 on May 7, 2012.

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 3, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 1.

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

Date Adopted: June 26, 2012.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 08-21-052, filed 10/9/08, effective 11/9/08)

WAC 392-127-015 FTE enrollment—Definition. As used in this chapter, "full-time equivalent enrollment" means for the period selected by a school district, the total full-time equivalent students reported by a school district pursuant to WAC 392-121-122 excluding:

(1) Running start and University of Washington transition school students reported under WAC 392-121-122 (3) and (4); and

(2) Students that are being served pursuant to a contract under WAC 392-121-188 with a higher education institution when the staff serving the students are not reported on the school district's S-275 report for the time of instruction.

(3) Students enrolled in alternative learning experience programs reported under RCW 28A.150.325.

AMENDATORY SECTION (Amending WSR 08-04-027, filed 1/29/08, effective 2/29/08)

WAC 392-127-070 Basic education certificated instructional staff ratio—Definition. As used in this chapter, "basic education certificated instructional staff ratio" means the following calculation:

(1) Add the full-time equivalent basic education certificated instructional employees, as determined in WAC 392-127-045, as reported on the S-275 and any supplemental full-time equivalent staff reported to the superintendent of public instruction, excluding staff assigned to alternative learning experience programs under RCW 28A.150.325;

(2) Divide the result obtained in subsection (1) of this section by the full-time equivalent enrollment for October or that period selected by the school district; and

(3) Multiply the result obtained in subsection (2) of this section by one thousand.

AMENDATORY SECTION (Amending WSR 10-13-048, filed 6/9/10, effective 7/10/10)

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-127-011

Other ratio requirements.

WSR 12-15-034
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 12-131—Filed July 12, 2012, 1:07 p.m., effective August 12, 2012]

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

Purpose: Amend rules for commercial salmon fishing [in] Puget Sound, including WAC 220-47-307, 220-47-311, 220-47-401, 220-47-411, 220-47-427, and 220-47-428. These changes incorporate the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council to take harvestable fish in commercial salmon fisheries in Puget Sound while protecting species of fish listed as endangered.

Citation of Existing Rules Affected by this Order: Amending WAC 220-47-307, 220-47-311, 220-47-401, 220-47-411, 220-47-427, and 220-47-428.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 12-05-112 on February 22, 2012, and WSR 12-11-128 on May 23, 2012.

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 6, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, 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 12, 2012.

David Giglio
for Philip Anderson
Director

AMENDATORY SECTION (Amending Order 11-165, filed 7/22/11, effective 8/22/11)

WAC 220-47-311 Purse seine—Open periods. It is unlawful to take, fish for, or possess salmon taken with purse seine gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas and during the periods provided for in each respective Management and Catch Reporting Area:

Table with 3 columns: AREA, TIME, DATE. Row 1: 7, 7A: 7AM - 6PM - ((10/10,)) 10/11, 10/14, 10/15, ((10/16,)) 10/17, 10/18, 10/19, 10/20, 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3((11/4, 11/5))

Table with 3 columns: AREA, TIME, DATE. Row 1: AREA: 7B, 7C; TIME: 6AM - ((8PM)) 9PM; DATE: 11/4, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10((11/11, 11/12))

Note: In Areas 7 and 7A, it is unlawful to fail to brail when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f).

Table with 3 columns: AREA, TIME, DATE. Rows include: 7B, 7C: 6AM - ((8PM)) 9PM - ((8/17, 8/24, 8/31)) 8/15; 7B, 7C: 6AM - 8PM - 8/22, 8/29, 9/5; 7B: 7AM - 8PM - ((9/7)) 9/10, 9/12, 9/14; 7AM - 7PM - ((9/12, 9/14, 9/16)) 9/17, 9/19, 9/21; 7AM ((9/18)) 9/23; 7AM ((10/31)) 10/29; 7AM ((11/7)) 11/5; 7AM ((11/14)) 11/12; 7AM ((11/24)) 11/19; ((8AM)) 7AM ((11/28)) 11/26

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning at 12:01 a.m. on the last Monday in October and until 4:00 p.m. on the first Friday in December.

Table with 3 columns: AREA, TIME, DATE. Rows include: ((8)) 6AM - 8PM - 8/22, 8/24, 8/30, 9/1); 8A: ((6AM - 8PM)) 7AM - 7PM - Limited participation - two boats ((9/19, 9/26)) 9/17, 9/24; 8D: 7AM - 7PM - ((9/19, 9/26, 10/3)) 9/17, 9/24, 10/1, 10/8; 7AM - 6PM - ((10/10, 10/18, 10/24, 10/26, 11/4)) 10/16, 10/22, 10/24, 10/29; 7AM - 5PM - 11/5, 11/7, ((11/9, 11/15)) 11/13, 11/20; ((7AM - 4PM)) 11/29; 10 6AM - 8PM - Limited participation - four boats (8/22, 8/24, 8/30)); 10, 11: 7AM - 6PM - ((10/18, 10/24, 10/26, 11/4)) 10/15, 10/23, 10/25, 10/29; 7AM - 5PM - ((11/7, 11/9, 11/15)) 11/6, 11/8, 11/12, 11/20; ((7AM - 4PM)) 11/22); 12, 12B: 7AM - 6PM - ((10/18, 10/24, 10/26, 11/4)) 10/15, 10/23, 10/25, 10/29

AREA	TIME	DATE
	7AM - 5PM	- ((11/7, 11/9, 11/15)) <u>11/6, 11/8, 11/12, 11/20</u>
12C:	7AM - 5PM	- ((11/7, 11/9, 11/15)) <u>11/6, 11/8, 11/12, 11/20</u>
	((7AM - 4PM))	- 11/21)

Note: In Area 10 during any open period occurring in August or September, it is unlawful to fail to brail or use a brailing bunt when fishing with purse seine gear. Any time brailing is required, purse seine fishers must also use a recovery box in compliance with WAC 220-47-301 (7)(a) through (f). During limited participation fisheries it is unlawful for vessels to take or fish for salmon without department observers on board.

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

Chinook salmon - At all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C, and after October ~~((22))~~ 20 in Area 7B.

Coho salmon - At all times in Areas 7, 7A, 10, and 11, and prior to September ~~((4))~~ 2 in Area 7B.

Chum salmon - Prior to October 1 in Areas 7 and 7A, and at all times in 8A.

All other saltwater and freshwater areas - Closed.

AMENDATORY SECTION (Amending Order 11-165, filed 7/22/11, effective 8/22/11)

WAC 220-47-411 (~~Gill-net~~) Gillnet—Open periods. It is unlawful to take, fish for, or possess salmon taken with ~~((gill net))~~ gillnet gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for in each respective fishing area:

AREA	TIME	DATE(S)	MINIMUM MESH	
6D: Skiff ((gill net)) <u>gillnet</u> only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM	- 7PM	9/21, 9/22, ((9/23)) <u>9/25, 9/26, 9/27, 9/28, ((9/29, 9/30)) 10/1, 10/2, 10/3, 10/4, 10/5, ((10/6, 10/7)) 10/8, 10/9, 10/10, 10/11, 10/12, ((10/13)) 10/15, 10/16, 10/17, 10/18, 10/19(, 10/20, 10/21)</u>	5"

Note: In Area 6D, it is unlawful to use other than 5-inch minimum mesh in the skiff ~~((gill net))~~ gillnet fishery. It is unlawful to retain Chinook taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any Chinook or chum salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM	- Midnight; use of recovery box required	((10/10,)) <u>10/11, 10/14, 10/15, 10/17, 10/18, 10/19, 10/20</u>	6 1/4"
	7AM	- Midnight	((10/16, 10/17, 10/18, 10/19, 10/20,)) <u>10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10(, 11/11, 11/12)</u>	6 1/4"

Note: In Areas 7 and 7A after October 9 but prior to October ~~((16))~~ 21, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the ~~((gill net))~~ gillnet web enters the water, until the ~~((gill net))~~ gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f) when coho and Chinook release is required.

7B, 7C:	7PM	- 8AM	NIGHTLY <u>8/12, 8/14, ((8/16, 8/17)) 8/15, 8/19, 8/20, 8/21, 8/22, ((8/23, 8/24)) 8/26, 8/28, 8/29, 8/30(, 8/31)</u>	7"
7B:	7AM <u>9/2</u>	- 7AM ((the day following)) <u>9/7</u>	((9/4, 9/5, 9/6, 9/7, 9/8, 9/11, 9/12, 9/13, 9/14, 9/15))	5"
	<u>7AM 9/9</u>	= <u>7AM 9/13</u>		
	7AM ((9/18)) <u>9/16</u>	- ((Midnight 10/22)) <u>7AM 9/20</u>		5"
	((12:01AM 10/23)) <u>7AM 9/23</u>	- Midnight ((10/29)) <u>10/27</u>		((6 1/4")) <u>5"</u>
	7AM ((10/31)) <u>10/29</u>	- 4PM ((11/4)) <u>11/2</u>		6 1/4"
	6AM ((11/7)) <u>11/5</u>	- 4PM ((11/11)) <u>11/9</u>		6 1/4"
	6AM ((11/14)) <u>11/12</u>	- 4PM ((11/18)) <u>11/16</u>		6 1/4"
	((7AM 11/21)) <u>6 AM 11/19</u>	- 4PM ((11/25)) <u>11/23</u>		6 1/4"

AREA	TIME		DATE(S)	MINIMUM MESH
	((8AM-4:28)) 7 AM 11/26	-	4PM ((12/2)) 11/30	6 1/4"

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to ((gill-nets)) gillnets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and until 4:00 PM on the first Friday in December.

8:	((5AM-5:30AM	-	11PM	8/23, 8/25	5" minimum and 5 1/2" maximum
		-	11PM	8/29, 8/31	5" minimum and 5 1/2" maximum

Note: In Area 8 it is unlawful to take or fish for pink salmon with drift ((gill-nets)) gillnets greater than 60-mesh maximum depth. Fishers must also use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.

8A:	((5AM-5AM	-	11:30PM	8/17	5" minimum and 5 1/2" maximum
		-	11PM	8/22, 8/24	5" minimum and 5 1/2" maximum
	5:30AM	-	11PM	8/31	5" minimum and 5 1/2" maximum
	6PM	=	8AM	Limited participation; 2 boats only 9/19	5"
	6PM	-	8AM	NIGHTLY ((9/27, 9/28)) 9/25, 9/26	5"

Note: In Area 8A fishers must use minimum 5" and maximum 5 1/2" mesh during pink salmon management periods.

8D:	6PM	-	8AM	NIGHTLY ((9/18, 9/19)) 9/16, 9/20, ((9/21, 9/22, 9/25, 9/26)) 9/23, 9/27, ((9/28, 9/29, 10/2, 10/3)) 9/30, 10/4((, 10/5, 10/6))	5"
	6PM 9/17	=	8AM 9/20		5"
	6PM 9/24	=	8AM 9/27		5"
	6PM 10/1	=	8AM 10/4		5"
	5PM	-	8AM	((10/9, 10/10)) 10/7, 10/11((, 10/12, 10/13))	5"
	5PM 10/8	=	8AM 10/11		5"
	5PM	-	9AM	((10/16, 10/17)) 10/14, 10/18, ((10/19, 10/20, 10/23, 10/24)) 10/21, 10/25, ((10/26, 10/27, 10/30, 10/31)) 10/28, 11/1((, 11/2, 11/3))	5"
	((7AM-5PM 10/15	-	9PM	9/20, 9/21, 9/27, 9/28, 10/4, 10/5	5"))
		=	9AM 10/18		5"
	5PM 10/22	=	9AM 10/25		5"
	5PM 10/29	=	9AM 11/1		5"
	((7AM-6AM	-	8PM	10/11, 10/12, 10/18, 10/19, 10/25, 10/26, 11/1, 11/2	5"))
		-	6PM	((11/9, 11/10, 11/16, 11/17)) 11/7, 11/8, 11/14, 11/15, 11/21, 11/22	6 1/4"
	((7AM-6AM	-	6PM	11/23, 11/24	6 1/4"))
		-	4PM	((11/11, 11/18)) 11/9, 11/16, 11/23	6 1/4"
	((7AM-6AM	-	4PM	11/25	6 1/4"))
9A: Skiff ((gill-net)) gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM ((8/21)) 8/19	-	7PM ((10/29)) 10/27		5"

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1, and it is unlawful to retain Chinook salmon at any time. Any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.

10:	((5AM-5:30AM	-	11PM	Limited participation - four boats (8/23, 8/25)	4 1/2" minimum and 5 1/2" maximum
		-	11PM	Limited participation - four boats (8/30)	4 1/2" minimum and 5 1/2" maximum

Note: In Area 10 fishers must use minimum 4 1/2" and maximum 5 1/2" mesh during pink salmon management periods. Also, during August or September openings, coho and Chinook salmon must be released, and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the ((gill-net)) gillnet web enters the water, until the ((gill-net)) gillnet is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f). During all limited participation fisheries, it is unlawful for vessels to take or fish for salmon without department observers on board.

AREA	TIME		DATE(S)	MINIMUM MESH	
10, 11:	5PM	-	9AM	NIGHTLY 10/16, ((10/27)) 10/17, 10/21, 10/30, 10/31	6 1/4"
	((5PM	-	8AM	NIGHTLY 10/25	6 1/4")
	4PM	-	((8AM)) 9AM	NIGHTLY ((11/8, 11/10)) 11/4, 11/13, 11/18	6 1/4"
	((3PM	-	8AM	NIGHTLY 11/20	6 1/4")
	4PM	-	Midnight	NIGHTLY ((10/19, 11/2, 11/16, 11/23)) 10/24, 11/7, 11/14, 11/21	6 1/4"
12A: Skiff ((gill-net)) gillnet only, definition WAC 220-16-046 and lawful gear description WAC 220-47-302.	7AM	-	7PM	Dates determined per agreement with tribal co-managers in-season if Summer Chum Salmon Conservation Initiative goals are met allowing for openings of ((gill-net)) gillnet gear.	5"
Note: In Area 12A, it is unlawful to use other than 5-inch minimum mesh in the skiff ((gill-net)) gillnet fishery. It is unlawful to retain Chinook or chum salmon taken in Area 12A at any time, and any salmon required to be released must be removed from the net by cutting the meshes ensnaring the fish.					
12, 12B:	7AM	-	8PM	((10/17, 10/19, 10/25, 10/27, 10/31, 11/2)) 10/16, 10/18, 10/22, 10/24, 10/30, 11/1	6 1/4"
	6AM	-	6PM	((11/8, 11/10, 11/14, 11/16)) 11/5, 11/7, 11/13, 11/15, 11/19	6 1/4"
12C:	6AM	-	6PM	((11/8, 11/10, 11/14, 11/16)) 11/5, 11/7, 11/13, 11/15, 11/19, 11/21	6 1/4"
	((7AM	-	6PM	11/22, 11/24	6 1/4")

All other saltwater and freshwater areas - closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

AMENDATORY SECTION (Amending Order 11-165, filed 7/22/11, effective 8/22/11)

WAC 220-47-428 Beach seine—Open periods. It is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

All areas:

AREA	TIME		DATE(S)
12A:	7AM	-	7PM
			8/21, 8/22, 8/23, 8/24, ((8/25, 8/26)) 8/27, 8/28, 8/29, 8/30, 8/31, ((9/1-9/2)) 9/3, 9/4, 9/5, 9/6, 9/7, ((9/8, 9/9)) 9/10, 9/11, 9/12, 9/13, 9/14, ((9/15-9/16)) 9/17, 9/18, 9/19, 9/20, 9/21, ((9/22, 9/23)) 9/24, 9/25, 9/26, 9/27, 9/28 ((9/29, 9/30))
12H:	7AM	-	7PM
			November (dates determined per agreement with tribal co-managers in-season if harvestable surplus of salmon remain).

It is unlawful to retain Chinook taken with beach seine gear in all areas, and it is unlawful to retain chum from Area 12A.

AMENDATORY SECTION (Amending Order 11-165, filed 7/22/11, effective 8/22/11)

WAC 220-47-307 Closed areas—Puget Sound salmon. It is unlawful at any time, unless otherwise provided,

to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas, except that closures listed in this section do not apply to reef net fishing areas listed in RCW 77.50.050:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-47-266.

Area 6D - That portion within 1/4-mile of each mouth of the Dungeness River.

Area 7 - (1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point, thence west to a point intercepting a line projected from the northernmost point of Jones Island, thence 90° true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

(6) Those waters easterly of a line projected from Biz Point on Fidalgo Island to the Williamson Rocks Light, thence to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the south-

western-most point of Fidalgo Head, and including those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from the southwestern-most point of Fidalgo Head northerly to Shannon Point.

(7) Additional Fraser sockeye and pink seasonal closure: Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker northerly to Biz Point.

(8) Those waters within 1,500 feet of the eastern shore of Lopez Island from Point Colville northerly to Lopez Pass, and those waters within 1,500 feet of the eastern shore of Decatur Island from the southernmost point of land northerly to Fauntleroy Point, and including those waters within 1,500 feet of the shore of James Island.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-47-252.

Area 7B - (1) That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the southeastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

(2) That portion of Bellingham Bay and Portage Bay adjacent to Lummi Indian Reservation is closed north and west of a line from the intersection of Marine Drive and Hoff Road (48°46'59"N, 122°34'25"W) projected 180° true for 2.75 nautical miles (nm) to a point at 48°45'11"N, 122°34'25"W, then 250° true for 1.4 nm to a point at 48°44'50"N, 122°35'42"W, then 270° true for 1.4 nm to 48°44'50"N, 122°37'08"W, then 230° true for 1.3 nm to 48°44'24"N, 122°37'52"W, then 200° true for 1 nm to 48°43'45"N, 122°38'12"W, then 90° true for 1 nm to a point just northeast of Portage Island (48°43'45"N, 122°37'14"W), then 160° true for 1.4 nm to a point just east of Portage Island (48°42'52"N, 122°36'37"W).

(3) Additional coho seasonal closure: (~~During the month of~~) September 1 through September 21, closed to (~~gill nets~~) gillnets in the waters of Area 7B west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W), then to the northernmost tip of Eliza Island (48°39'37"N, 122°35'45"W), then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W), and then southeastward along that line to Fish Point. Nontreaty purse seiners fishing in this area must release coho.

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 - (1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island, thence across the Skagit River to the terminus of the jetty with McGlenn Island.

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point.

Area 8A - (1) Those waters easterly of a line projected from Mission Point to Buoy C1, excluding the waters of Area

8D, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D, except when open for pink fisheries.

(2) Additional coho seasonal closure prior to October 3: Those waters southerly of a line projected from the Clinton ferry dock to the Mukilteo ferry dock.

(3) Adjusted pink seasonal closure: Those waters easterly of a line projected from the southernmost point of Area 8D, the point of which begins from a line projected 225° from the pilings at Old Bower's Resort to a point 2,000 feet offshore, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D, and waters southerly of a line projected from the Clinton ferry dock to the Mukilteo ferry dock.

Area 8D - Those waters easterly of a line projected from Mission Point to Hermosa Point.

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point light to Sierra Echo buoy, thence to Forbes Landing wharf east of Hansville.

Area 10 - (1) Those waters easterly of a line projected from Meadow Point to West Point.

(2) Those waters of Port Madison westerly of a line projected from Point Jefferson to the northernmost portion of Point Monroe.

(3) Additional pink seasonal closure: The area east inside of the line originating from West Point and extending west to the closest midchannel buoy, thence true through Point Wells until reaching latitude 47°44'50"N, thence extending directly east to the shoreline.

(4) Additional coho and chum seasonal closure: Those waters of Elliott Bay east of a line from Alki Point to the light at Fourmile Rock, and those waters northerly of a line projected from Point Wells to "SF" Buoy, then west to President's Point.

Area 10E - Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton ferry terminal.

Area 11 - (1) Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor, and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

(2) Additional coho seasonal closure: Those waters south of a line projected from the light at the mouth of Gig Harbor to the Tahlequah ferry dock, then south to the Point Defiance ferry dock, and those waters south of a line projected from the Point Defiance ferry dock to Dash Point.

Area 12 - Those waters inside and easterly of a line projected from Lone Rock to the navigation light off Big Beef Creek, thence southerly to the tip of the outermost northern headland of Little Beef Creek.

Area 12A - Those waters north of a line projected due east from Broad Spit.

Area 12B - Those waters within 1/4-mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

Areas 12, 12A, and 12B - (1) Those waters within 1,000 feet of the mouth of the Quilcene River.

(2) Additional Chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point to Triton Head.

Areas 12, 12B and 12C - Those waters within 1,000 feet of the eastern shore.

Area 12C - (1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park and the Hoodspport marina dock.

(2) Those waters south of a line projected from the Cushman Powerhouse to the public boat ramp at Union.

(3) Those waters within 1/4-mile of the mouth of the Dewatto River.

Areas 12 and 12D - Additional coho and chum seasonal closure: Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line, and those waters of Area 12D.

Area 13A - Those waters of Burley Lagoon north of State Route 302; those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay, including all waters of Minter Creek Bay; those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove; and those waters within 1/4-mile of Green Point.

AMENDATORY SECTION (Amending Order 11-165, filed 7/22/11, effective 8/22/11)

WAC 220-47-401 Reef net open periods. (1) It is unlawful to take, fish for, or possess salmon taken with reef net gear for commercial purposes in Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for in each respective area:

AREA	TIME	DATE(S)
7, 7A	5AM - 9PM Daily	((4/2-11/13)) 9/30 - 11/10

(2) It is unlawful at all times to retain wild Chinook salmon taken with reef net gear, and it is unlawful prior to October 1 to retain chum or wild coho salmon taken with reef net gear.

(3) It is unlawful to retain marked Chinook after September 30.

(a) It is unlawful to retain marked Chinook with reef net gear if the fisher does not have in his or her immediate possession a department-issued Puget Sound Reef Net Logbook with all retained Chinook accounted for in the logbook. Marked Chinook are those with a clipped adipose fin and a healed scar at the site of the clipped fin.

(b) Completed logs must be submitted and received within six working days to: Puget Sound Commercial Salmon Manager, Department of Fish & Wildlife, 600 Capitol Way N, Olympia, WA((;)) 98501-1091.

(4) All other saltwater and freshwater areas - Closed.

AMENDATORY SECTION (Amending Order 11-165, filed 7/22/11, effective 8/22/11)

WAC 220-47-427 Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear.

(1) The Puget Sound beach seine salmon fishery is designated as an emerging commercial fishery for which a vessel is required. An emerging commercial fishery license and an experimental fishery permit are required to participate in this fishery.

(2) The department will issue four salmon beach seine experimental fishery permits.

(3) The following is the selection process the department will use to offer a salmon beach seine experimental permit.

(a) Persons who held a salmon beach seine experimental fishery permit in the previous management year will be eligible for a permit in the current management year.

(b) The department will work with the advisory board, per RCW 77.70.160(1), to establish criteria by which applicants ((~~would~~)) will qualify to enter the pool. The pool established by this drawing will be maintained to replace any permit(s) which ((~~may be~~)) are voided.

(4) Permit holders are required to participate in the salmon beach seine experimental fishery.

(a) For purposes of this section, "participation" means the holder of the salmon beach seine experimental permit ((~~being~~)) is aboard the designated vessel in the open fishery.

(b) If the salmon beach seine experimental permit holder fails to participate, the salmon beach seine experimental permit issued to that fisher will be ((~~void~~)) voided, and a new salmon beach seine experimental permit will be issued through a random drawing from the applicant pool.

(c) The department may require permit holders to show proof of participation by maintaining a department approved log book or registering with state officials each day the salmon beach seine experimental permit holder participates.

(d) Persons who participate((;)) in the fishery but violate conditions of a salmon beach seine experimental permit((;)) will have ((~~the~~)) their permit voided, and a new salmon beach seine experimental permit will be reissued through a random drawing from the pool of the voided permit holder.

(5) In Quilcene Bay, chum salmon may not be retained by a salmon beach seine experimental permit holder. Chum salmon in Quilcene Bay must be released alive.

(6) Any person who fails to purchase the license, fails to participate, or violates the conditions of a salmon beach seine experimental permit will have his or her name permanently withdrawn from the pools.

(7) It is unlawful to take salmon with beach seine gear that does not meet the requirements of this subsection.

(a) Beach seine salmon nets in Puget Sound shall not exceed ((~~600~~)) 990 feet in length or ((~~100~~)) 200 meshes in depth, or contain meshes of a size less than 3 inches or greater than 4 inches.

(b) Mesh webbing must be constructed with a twine size no smaller than 210/30d nylon, 12 thread cotton, or the equivalent diameter in any other material.

WSR 12-15-043
PERMANENT RULES
HEALTH CARE AUTHORITY

(Basic Health)

[Filed July 13, 2012, 2:43 p.m., effective August 13, 2012]

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

Purpose: This filing aligns and clarifies the basic health processes as result of the federal requirements contained in the section 1115 federal waiver to comport with the requirements of 42 C.F.R. 431 Part E (Fair Hearings).

Citation of Existing Rules Affected by this Order: Amending WAC 182-22-320.

Statutory Authority for Adoption: RCW 70.47.050.

Other Authority: 2E2SHB 1738, section 53.

Adopted under notice filed as WSR 12-10-013 on April 19, 2012.

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 1, Repealed 0.

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

Date Adopted: July 13, 2012.

Kevin M. Sullivan
 Rules Coordinator

AMENDATORY SECTION (Amending Order 10-03, filed 11/30/10, effective 12/31/10)

WAC 182-22-320 How to appeal health care authority (HCA) decisions. (1) HCA decisions regarding the following may be appealed under this section:

- (a) Eligibility;
- (b) Premiums;
- (c) Premium adjustments or penalties;
- (d) Enrollment;
- (e) Suspension;
- (f) Disenrollment; or
- (g) Selection of managed health care system (MHCS).

(2) ~~((To appeal an HCA decision, enrollees))~~ The hearing process described in chapter 388-526 or 182-526 WAC, whichever is in effect at the time of the appeal, applies to the subsidized basic health program (BHP) appeal process found in this subsection. Where conflict exists, the requirements in this chapter take precedence.

(a) To appeal an HCA decision, enrollees or applicants must send a written request for a hearing to the HCA. The written hearing request should be signed by the appealing party and must be received by the HCA within ninety calendar

days of the date of the HCA notice. The request must be sent to:

Basic Health Appeals
P.O. Box 42690
Olympia, WA 98504-2690

(b) The hearing request should include:

(i) The name, mailing address, and BHP account number of the subscriber or applicant;

(ii) The name and address of the enrollee or applicant affected by the decision, if that person is not the subscriber on the account;

(iii) A copy of the HCA notice of the decision that is being appealed or, if the notice is not available, a statement of the decision being appealed;

(iv) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documentation; and

(v) If the appealing party is not an enrollee or the subscriber on the account, a signed agreement from the enrollee authorizing the appealing party to act on the enrollees behalf and authorizing the HCA to release otherwise confidential information to the appealing party's designated representative.

(c) HCA provides at least ten days advanced notice of any change in enrollment or premiums. An enrollee may continue receiving the same benefits under the same terms and conditions as received before the change, if a hearing is requested before the effective date of the agency action. This is called continuation of benefits. Requests for continuation of benefits should be in writing. To qualify for continuation of benefits, the appealing party must continue to pay all premiums when due as required by law and request the hearing in writing before the effective date of the agency's action.

(d) HCA reviews all appeals to determine whether the appeal can be resolved prior to sending the appeal to the office of administrative hearings (OAH) to schedule a hearing.

(i) If the parties can resolve the appeal to the satisfaction of the applicant or enrollee who requested the hearing and the applicant or enrollee chooses to withdraw the appeal before HCA sends the appeal to the OAH, the enrollee or applicant must submit a written request to withdraw the appeal to the HCA at:

Basic Health Appeals
P.O. Box 42690
Olympia, WA 98504-2690

(ii) If the parties cannot resolve the appeal or if the applicant or enrollee does not withdraw the appeal, HCA will forward the appeal to OAH so a hearing can be scheduled. The provisions of chapter 388-526 or 182-526 WAC, whichever is in effect at the time of the hearing, apply only if the appeal is sent to OAH for a hearing.

(3) This subsection applies only to Washington health (WH) program appeals. Enrollees or applicants must send a letter of appeal to the HCA. The letter of appeal should be signed by the appealing party and must be received by the HCA within thirty calendar days of the date of the decision.

(a) The letter of appeal should include:

((a)) (i) The name, mailing address, and ((BHP-OF)) WHP account number of the subscriber or applicant;

((b)) (ii) The name and address of the WH enrollee or applicant affected by the decision, if that person is not the subscriber on the account;

((c)) (iii) A copy of the HCA notice of the decision that is being appealed or, if the notice is not available, a statement of the decision being appealed;

((d)) (iv) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documentation; and

((e)) (v) If the appealing party is not an enrollee or the subscriber on the account, a signed agreement from the enrollee, authorizing the appealing party to act on his/her behalf.

((f)) (b) When an appeal is received, the HCA will send a notice to the appealing party, confirming that the appeal has been received and indicating when a decision can be expected. If the appealing party is not an enrollee on the affected account, the notice will also be sent to the subscriber.

((g)) (c) **Initial HCA decisions:** The HCA will conduct WH appeals according to RCW 34.05.485. The HCA appeals committee or a single presiding officer designated by the HCA will review and decide the appeal. The appealing party may request an opportunity to be present in person or by telephone to explain his or her view. If the appealing party does not request an opportunity to be present to explain, the HCA appeals committee or presiding officer will review and decide the appeal based on the information and documentation submitted.

((h)) (i) The HCA will give priority handling to appeals regarding a loss of coverage for an enrollee with an urgent medical need that could seriously jeopardize the enrollee's life, health, or ability to regain maximum function, provided:

((a)) (A) The appeal is received within ten business days of the effective date of the loss of coverage; and

((b)) (B) The enrollee has clearly stated in the letter of appeal or has otherwise notified the HCA that he or she has an urgent medical need.

((c)) (ii) For all other appeals, the HCA will send the appealing party written notice of the initial HCA decision within sixty days of receiving the letter of appeal. If the appealing party is not an enrollee on the affected account, the notice will also be sent to the subscriber. The notice will include the reasons for the initial decision and instructions on further appeal rights.

((d)) (d) **Review of initial HCA decision on WH appeal:** The initial HCA decision becomes the final agency decision unless the HCA receives a valid request for a review from the appealing party.

((a)) (i) To be a valid request for review, the appealing party's request may be either verbal or in writing, but must:

((i)) (A) Be received within thirty days of the date of the initial HCA decision.

((ii)) (B) Include a summary of the initial HCA decision being appealed and state why the appealing party believes the decision was incorrect; and

((iii)) (C) Provide any additional information or documentation that the appealing party would like considered in the review.

((b)) (ii) Requests for review of an initial HCA decision regarding a disenrollment for nonpayment will be reviewed by the office of administrative hearings through a hearing conducted under chapter 34.12 RCW and RCW 34.05.488 through 34.05.494.

((c)) (iii) All other requests for review of an initial HCA decision will be reviewed by a presiding officer designated by the HCA according to the requirements of RCW 34.05.488 through 34.05.494, with the following exception: These review decisions will be based on the record and documentation submitted, unless the presiding officer decides that an in-person or telephone hearing is needed. If an in-person or telephone hearing is needed, the presiding officer will decide whether to conduct the hearing as an informal hearing or formal adjudicative proceeding.

((d)) (iv) The presiding officer will issue a written notice of the review decision, giving reasons for the decision, within twenty-one days of receiving the request for review, unless the presiding officer finds that additional time is needed for the decision.

((e)) (e) Enrollees who appeal a disenrollment decision that was based on eligibility issues and not related to premium payments may remain enrolled during the appeal process, provided:

((a)) (i) The appeal was submitted according to the requirements of this section; and

((b)) (ii) The enrollee:

((i)) (A) Remains otherwise eligible;

((ii)) (B) Continues to make all premium payments when due; and

((iii)) (C) Has not demonstrated a danger or threat to the safety or property of the MHCS or health care authority or their staff, providers, patients or visitors.

~~((9) Enrollees who appeal a disenrollment decision related to nonpayment of premium or any issue other than eligibility will remain disenrolled during the appeal process.~~

~~((10) If the appealing party disagrees with a review decision under subsection (6) of this section, the appealing party may request judicial review of the decision, as provided for in RCW 34.05.542. Request for judicial review must be filed with the court within thirty days of service of the final agency decision.)~~ (4) For both WH and the BHP, enrollees who appeal a disenrollment decision related to nonpayment of premium or any issue other than eligibility will remain disenrolled during the appeal process.

WSR 12-15-044

PERMANENT RULES

GAMBLING COMMISSION

[Administrative Order 678—Filed July 13, 2012, 4:30 p.m., effective August 13, 2012]

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

Purpose: ShuffleMaster's petition requesting an amendment to authorize a carryover pot in card games was approved. Under current rules, a player's win or loss must be

determined during a single card game. The petitioner's amendment provides an exception for carryover pots. A carryover pot is an optional pot that accumulates as a dealer and participating players contribute to the pot. The pot is not necessarily determined after one game and can be carried over to more than one game. Carryover pots will not carryover more than ten games. Participants will include at least one player and the dealer competing for the highest winning hand. Game rules will determine how the pot is distributed.

Reasons Supporting Proposal: See above.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-040.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0282.

Adopted under notice filed as WSR 12-09-044 filed on April 13, 2012.

Changes Other than Editing from Proposed to Adopted Version: Based on discussion at the April 2012, commission meeting, staff proposed an amendment to ensure there is a fair method of distribution if the pot is not won after ten games. If the pot is not won after ten games, the dealer will divide it equally between the remaining players still participating in the pot and the house or, if allowed by game rules, only the players still participating in the pot. The petitioner supports the amendment.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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: July 13, 2012.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Orders 656 and 656-A, filed 8/14/09 and 8/18/09, effective 9/14/09 and 9/18/09)

WAC 230-15-040 Requirements for authorized card games. (1) In order for a card game to be authorized, ((the card game)) it must be approved by the director or the director's designee and must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than four separate games with a single hand of cards. However, no more than three of the games may offer a wager that exceeds five dollars each. We consider bonus features and progressive jackpots separate

games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

(ii) An "envy" or "share the wealth" wager which allows a player to receive a prize if another player wins a jackpot or odds-based wager; or

(iii) A tip wager made on behalf of a dealer.

(4) Mini-Baccarat is authorized when operated in the manner explained for Baccarat in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Encyclopedia of Card Games*, or similar authoritative book on card games we have approved. However:

(a) Card game licensees may make immaterial modifications to the game; and

(b) Subsection (3) of this section does not apply; and

(c) The number of players is limited under WAC 230-15-055.

(5) A player's win or loss must be determined during the course of play of a single card game, except for a carryover pot game. A carryover pot is an optional pot that accumulates as a dealer and participating players contribute to the pot. The winner of the pot is not necessarily determined after one game and the pot can be carried over to more than one game. Carryover pots must not carryover more than ten games. Participants must include at least one player and the dealer competing for the highest qualifying winning hand. Game rules must state how the pot is distributed. If the carryover pot has not been won by the tenth game, the dealer will divide it equally between the remaining players still participating in the pot and the house or, if allowed by game rules, only the players still participating in the pot.

WSR 12-15-049

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2012-10—Filed July 16, 2012, 4:14 p.m., effective August 16, 2012]

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

Purpose: This rule amends WAC 284-29A-030 to postpone by one year the date upon which title insurers must file their rates with the commissioner under RCW 48.29.147 and when rate filings must be made under RCW 48.29.147 rather than RCW 48.29.140. The rule also postpones the filing of the title agent report under WAC 284-29A-110 for the calendar year 2011 to April 1, 2013, rather than April 1, 2012.

Citation of Existing Rules Affected by this Order: Amending WAC 284-29A-030 and 284-29A-110.

Statutory Authority for Adoption: RCW 48.02.060 and 48.29.140.

Other Authority: RCW 48.29.143 and 48.29.147.

Adopted under notice filed as WSR 12-12-066 on June 5, 2012.

A final cost-benefit analysis is available by contacting Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7036, fax (360) 586-3109, e-mail jimt@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 2, 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 2, Repealed 0.

Date Adopted: July 13, 2012.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2011-07, filed 7/27/11, effective 8/27/11)

WAC 284-29A-030 Transition to prior approval system. (1) On and after January 1, (~~(2013)~~) 2014, all rates used in Washington state must be filed and approved under RCW 48.29.147.

(2) Title insurers must submit the rate filings required under RCW 48.29.147 and subsection (1) of this section to the commissioner by September 1, (~~(2012)~~) 2013, for rates to be effective on January 1, (~~(2013)~~) 2014. This rule allows the commissioner time to take final action on rates filed under this chapter before the effective date of January 1, (~~(2013)~~) 2014.

(3) Rates filed under RCW 48.29.140(2) must not be used for commitments issued on or after January 1, (~~(2013)~~) 2014.

AMENDATORY SECTION (Amending Matter No. R 2009-01, filed 7/20/10, effective 8/20/10)

WAC 284-29A-110 Title insurance agents must report data to title insurers. (1) Each title insurance agent must report premium, policy count, and expense data annually to each title insurer for which it produces business in the state of Washington by April 1st of each year, except as provided in subsection (4) of this section. These data must be reported following the instructions published by the commissioner on the commissioner's web site at www.insurance.wa.gov. These instructions, called the *Title Insurance Agent Annual Report*, are incorporated into this chapter by reference.

(2) Each annual report required by this section must include:

(a) The following premium and policy count data:

(i) Title insurance premiums for all of the agent's business; and

(ii) Title insurance premiums produced for the title insurer to which the report is sent.

(iii) Number of policies issued by all of the title insurers with which the agent does business; and

(iv) Number of policies issued by the title insurer to which the report is sent.

(b) The following expense data related to issuing title insurance policies and commitments for all of the agent's business, excluding all expenses related to escrow and other activities not directly related to title insurance:

(i) Employees' salaries and wages;

(ii) Owners' and partners' salaries and wages representing reasonable compensation for personal services actually performed by owners and partners;

(iii) Employee benefits;

(iv) Rent;

(v) Insurance;

(vi) Legal expense;

(vii) Licenses, taxes, and fees;

(viii) Title plant expense and maintenance;

(ix) Office supplies;

(x) Depreciation;

(xi) Automobile expense;

(xii) Communication expense;

(xiii) Education expense;

(xiv) Bad debts;

(xv) Interest expense;

(xvi) Employee travel and lodging;

(xvii) Loss and loss adjustment expense;

(xviii) Accounting and auditing expense;

(xix) Public relations expense; and

(xx) Other specifically identified expenses.

(c) An explanation that:

(i) Describes how expenses are allocated between the title operations and escrow or other operations of the title insurance agent; and

(ii) Demonstrates that the expenses described in WAC 284-29A-070(2) have been excluded.

(d) The estimated average cost to issue a title insurance commitment.

(3) If a title insurer does not receive a report required under this section by April 1st of each year, the title insurer

must notify the commissioner by April 15th. This notice must include the name of the agent that did not send the report on time.

(4) For the 2011 calendar year report, each title agent must submit the report to the title insurer(s) on or before April 1, 2013.

WSR 12-15-050
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2011-31—Filed July 16, 2012, 4:17 p.m., effective August 16, 2012]

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

Purpose: This rule makes clear and beyond question that the separate premium account may not be used as a personal asset by licensed producers and surplus line brokers and that premium taxes must be deposited into the account and cannot be withdrawn from the account, except for payment to the state or refund of unearned taxes.

Citation of Existing Rules Affected by this Order: Amending WAC 284-12-080.

Statutory Authority for Adoption: RCW 48.02.060 and 48.17.005.

Other Authority: RCW 48.15.180, 48.17.480, and 48.17.600.

Adopted under notice filed as WSR 12-11-127 on May 23, 2012.

A final cost-benefit analysis is available by contacting Jim Thompkins, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7036, fax (360) 586-3109, e-mail jimt@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: July 16, 2012.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2010-09, filed 12/22/10, effective 1/22/11)

WAC 284-12-080 Requirements for separate accounts. (1) The purpose of this section is to effectuate RCW 48.15.180, 48.17.600 and 48.17.480 with respect to the

separation and accounting of premium funds by insurance producers, title insurance agents and surplus line brokers, collectively referred to in this section as "producers." Pursuant to RCW 48.30.010, the commissioner has found and hereby defines it to be an unfair practice for any producer, except as allowed by statute, to conduct insurance business without complying with the requirements of RCW 48.15.180, 48.17.600 and this section.

(2) All funds representing premiums as defined in RCW 48.18.170, which includes premium taxes and commissions, and return premiums received on Washington business by a producer in his or her fiduciary capacity on or after January 1, 1987, ~~((shall))~~ must be deposited in one or more identifiable separate accounts which may be interest bearing.

(a) A producer ~~((may))~~ must not deposit ~~((no))~~ funds other than premiums as defined in RCW 48.18.170, which includes premium taxes and commissions and return premiums to the separate account except as follows:

(i) Funds reasonably sufficient to pay bank charges;

(ii) Funds a producer may deem prudent for advancing premiums, or establishing reserves for the paying of return premiums; ~~((and))~~

(iii) Funds for contingencies as may arise in the business of receiving and transmitting premiums or return premiums; and

(iv) Fees paid by insureds as permitted under RCW 48.17.270(2).

(b) A producer may commingle Washington premiums as defined in RCW 48.18.170, which includes premium taxes and commissions, and return premiums with those produced in other states, ~~((but))~~ provided adequate records are maintained to identify the amounts for Washington business. There ((shall)) must be no commingling of any funds ((which would)) not ((be)) permitted by this section.

(3)(a) The separate account funds ~~((may))~~ must be:

(i) Deposited in a checking account, demand account, or a savings account in a bank, national banking association, savings and loan association, mutual savings bank, stock savings bank, credit union, or trust company located in the state of Washington. ~~((Such an))~~ The account must be insured by an entity of the federal government; or

(ii) Invested in United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States government is pledged for payment of principal and interest, and repurchase agreements collateralized by securities issued by the United States government ~~((—and bankers acceptances)).~~ Insurers may, of course, restrict investments of separate account funds by their agent.

(b) A nonresident licensee, or a resident producer with affiliated operations under common ownership in two or more states, may utilize comparable accounts in another state provided such accounts otherwise meet the requirements of RCW 48.15.180, 48.17.600, 48.17.480 and this rule, and are accessible to the commissioner for purposes of examination or audit at the expense of the producer.

(4) Disbursements or withdrawals from a separate account ~~((shall))~~ must only be made for the following purposes ~~((only)),~~ and in the manner stated:

(a) For charges imposed by a bank or other financial institution for operation of the separate account;

(b) For payments of premiums, directly to insurers or other producers entitled thereto;

(c) For payments of return premiums, which includes premium taxes, directly to the insureds or other persons entitled thereto;

(d) For payments of earned commissions and other funds belonging to the separate account's producer, directly to another account maintained by such producer as an operating or business account, but only to the extent that the premium funds for the policy or policies have actually been deposited into the separate premium account; ~~((and))~~

(e) For transfer of fiduciary funds, directly to another separate premium account which meets the requirements of this section;

(f) For payment of surplus line premium taxes to the state; and

(g) For payment of earned producer fees, but only to the extent that the fees were originally deposited in the separate premium account.

~~(5)(a) ((The entire premium received (including a surplus lines premium tax if paid by the insured) must be deposited into the separate account. Such)) The funds ((shall)) deposited in the separate premium account must be paid promptly to the insurer or to another producer entitled thereto, in accordance with the terms of any applicable agreement between the parties.~~

(b) Return premiums received by a producer and the producer's share of any premiums required to be refunded, must be deposited promptly to the separate account. ~~((Such)) The funds ((shall)) must be paid promptly to the insured or person entitled thereto.~~

(6)(a) ~~((Where)) When a producer receives a premium payment in the form of an instrument, such as a check, which is made payable to an insurer, general agent or surplus line broker, the producer may forward ~~((such)) the instrument directly to the payee if that can be done without endorsement or alteration. In ~~((such a)) this case, the producer's separate account is not involved because the producer has not "received" any funds.~~~~~~

(b) If the producer receives a premium payment in the form of cash or an instrument requiring endorsement by the producer, ~~((such)) the premium must be deposited into the producer's separate account, unless the insurer entitled to such funds has established other procedures by written direction to a producer who is its appointed agent, which procedures:~~

(i) Recognize that ~~((such agent)) the producer is receiving premiums directly on behalf of the insurer; and~~

(ii) Direct the producer to give adequate receipts on behalf of the insurer; and

(iii) Require deposit of the proceeds into the insurer's own account or elsewhere as permitted by the insurer's direction.

Thus, for example, an insurer may utilize the services of a licensed insurance producer, acting as a "captive agent," in the sale of its insurance and in the operation of its places of business, and directly receive payments intended for it without ~~((such)) the payments being deposited into and accounted~~

for through the licensed insurance producer's separate account. In ~~((such)) these cases, for purposes of this rule, the insurer, as distinguished from the insurance producer, is actually "receiving" the funds and is immediately responsible therefor.~~

(c) When a producer receives premiums ~~((in the capacity of)) as a surplus line broker, licensed ~~((pursuant to)) under chapter 48.15 RCW, after a binder or other written evidence of insurance has been issued to the insured, subject to the express written direction of the insurer involved, ~~((such)) the premiums, except premium taxes, may be removed from the separate account.~~~~~~

(7) The commissioner recognizes the practical problems of accounting for the small amounts of interest involved spread over a large number of insurers and insureds. Therefore, absent any agreement between the producer and the insured or insurer to the contrary, interest earned on the deposits held in the separate account may be retained by the producer and used to offset bank charges, establish reserves, pay return premiums, or for any of the purposes listed in subsection (2) of this section, or the interest may be removed to the operating account.

(8) A producer ~~((shall)) must establish and maintain records and an appropriate accounting system for all premiums ~~((and)) as defined in RCW 48.18.170, which includes premium taxes and commissions, return premiums, and fees received by the producer, and ~~((shall)) must make ~~((such)) the records available for inspection by the commissioner during regular business hours upon demand during the five years immediately after the date of the transaction.~~~~~~~~

(9) The accounting system used must effectively isolate the separate account from any operating accounts and segment or indentify all Washington business from that of other states. All recordkeeping systems, whether manual or electronic must provide an audit trail so that details underlying the summary data, such as invoices, checks, and statements, may be identified and made available on request. ~~((Such a)) The system must provide the means to trace any transaction back to its original source or forward to final entry, ~~((such)) as is accomplished by a conventional double-entry bookkeeping system. When automatic data processing systems are used, a description of the system must be available for review by the commissioner. A balance forward system (as in an ordinary checking account) is not acceptable.~~~~

(10)(a) A producer that is a business entity may utilize one separate account for the funds received by its affiliated persons operating under its license, and ~~((such)) the affiliated persons may deposit the funds they receive in ~~((such)) this capacity directly into the separate account of their firm or corporation.~~~~

(b) Funds received by an insurance producer who is employed by and offices with another insurance producer may be deposited into and accounted for through the separate account of the employing insurance producer. This provision does not, however, authorize the insurance producer employee to represent an insurer as to which he or she has no appointment.

(11) Premium taxes deposited to the separate premium account are held in trust for the state and must be maintained in the account until paid to the state.

(12) The separate premium account is a fiduciary account and not the personal asset or account of the producer. A producer must not make withdrawals from the account except as provided in this section. The separate premium account must not be encumbered in any manner nor be pledged as collateral for a loan.

(13) For the purposes of this section, a commission is earned no earlier than when the policy is bound or effective.

WSR 12-15-061
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 17, 2012, 1:36 p.m., effective September 1, 2012]

Effective Date of Rule: September 1, 2012.

Purpose: The department reviews the factory assembled structure rules on a regular basis to ensure the rules are consistent with industry practice and to provide clarity. The department needs to proceed with rule making in order to eliminate inconsistencies between agency rules and industry standards, which lead to confusion.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department?, 296-150C-0800 What manufacturing codes apply to commercial coaches?, 296-150C-0810 Construction definitions, 296-150C-1150 Hallways, 296-150C-1330 Mechanical—General, 296-150C-1340 Mechanical definitions, 296-150C-1470 Ventilation and indoor air quality—General, 296-150C-1480 Ventilation and indoor air quality definitions, 296-150F-0020 What definitions apply to this chapter?, 296-150F-0230 What are the insignia application requirements?, 296-150F-0310 Who can approve design plans?, 296-150F-0320 What must I provide with my request for design-plan approval by the department?, 296-150F-0580 Must I obtain an insignia for used factory-built structures?, 296-150F-0600 What manufacturing codes apply to factory-built housing and commercial structures?, 296-150F-0605 May the required toilet facilities be located in an adjacent building?, 296-150P-0020 What definitions apply to this chapter?, 296-150R-0020 What definitions apply to this chapter?, 296-150T-0200 Who must purchase factory-built temporary worker housing insignia?, 296-150T-0600 What manufacturing codes apply to factory-built temporary worker housing?, 296-150V-0800 What codes apply to conversion vendor units or medical units?, 296-150V-1180 What requirements apply to conversion vendor unit exits on all units approved after December 31, 1999?, 296-150V-1185 What exit door requirements apply to self-propelled medical unit exits?, and 296-150V-1330 What are the mechanical requirements for a conversion vendor unit or medical unit?

Statutory Authority for Adoption: Chapter 43.22 RCW.

Adopted under notice filed as WSR 12-09-055 on April 17, 2012.

A final cost-benefit analysis is available by contacting Alicia Curry, P.O. Box 44400, Olympia, WA 98504-4400,

phone (360) 902-4281, fax (360) 902-5292, e-mail alicia.curry@lni.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 6, Amended 23, 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 6, Amended 23, Repealed 0.

Date Adopted: July 17, 2012.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 05-23-002, filed 11/3/05, effective 12/4/05)

WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;
(2) Two sets of design plans plus elevation drawings, specifications, engineering analysis, and test results and procedures necessary for a complete evaluation of the design; (see WAC 296-150C-0340 and 296-150C-0350.)

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) Receipt of a one-time initial design plan filing fee and the initial design plan fee (see WAC 296-150C-3000);

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules;

(6) The occupancy class of the commercial coach according to the occupancy classifications in the ~~((Uniform))~~ International Building Code;

(7) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper ~~((NCE))~~ NEC or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(8) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(9) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(10) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

NEW SECTION

WAC 296-150C-0495 Contractor deposit accounts.

Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-0800 What manufacturing codes apply to commercial coaches? (1) All design, construction, and installations of commercial coaches must conform with the following codes and the requirements of this chapter:

(a) The latest adopted version of the Washington State Ventilation and Indoor Air Quality Code, as adopted by chapter 51-13 WAC;

(b) The structural and other requirements of this chapter;

(c) Occupancy classification only from chapter 3 of the International Building Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-50 WAC, except commercial coaches must not be group H or R-3 occupancy;

(d) Accessibility requirements of chapter 11 of the International Building Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-50 WAC;

(e) Section 1607 Uniform and concentrated floor loads and footnotes of the International Building Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-50 WAC;

(f) The International Mechanical Code, ~~((2003))~~ current edition, as adopted and amended by chapter 51-52 WAC except when conflicting with the provisions of this chapter, this chapter controls;

(g) The National Electrical Code as referenced in chapter 19.28 RCW and chapter 296-46B WAC;

(h) The ~~((latest adopted version of the))~~ Washington State Energy Code, current edition, as adopted according to chapter 19.27A RCW;

(i) The Uniform Plumbing Code, current edition, as adopted and amended according to chapter 19.27 RCW;

(j) Where there is a conflict between codes, an earlier named code takes precedent over a later named code. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive governs. Where there is a conflict between a general requirement and a special requirement, the specific requirement must be applicable.

(2) All construction methods and installations must use accepted engineering practices, provide minimum health and safety to the occupants of commercial coaches and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

Note: The codes, RCW's and WAC's referenced in this rule are available to view at the Washington State Library, the Washington State Law Library, and may also be available at your local library.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

WAC 296-150C-0810 Construction definitions. The following definitions and the definitions in each of the state codes adopted in WAC 296-150C-0800 apply to commercial coach construction.

"**Anchoring system**" is the means used to secure a commercial coach to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, or other components.

"Ceiling height" is the clear vertical distance from the finished floor to the finished ceiling.

"Chassis" means that portion of the transportation system comprised of the following: Drawbar coupling mechanism and frame.

EXCEPTION: The running gear assembly shall not be considered as part of the chassis.

"Dead load" is the vertical load resulting from the weight of all permanent structural and nonstructural parts of a commercial coach including walls, floors, roof, partitions, and fixed service equipment.

"Diagonal tie" is a tie intended primarily to resist horizontal or shear forces and secondarily may resist vertical, uplift, and overturning forces.

"Dormitory" is a room designed to be occupied by more than two persons.

"Exit" is a continuous and unobstructed means of egress to a public way.

"Frame" means the fabricated rigid substructure, which provides support to the affixed commercial coach structure both during transport and onsite. It is considered a part of the commercial coach.

"Glazed opening" is a glazed skylight or an exterior window or glazing of a door of a commercial coach.

"Gross floor area" is the net floor area within the enclosing walls of a room where the ceiling is at least five feet high.

"Habitable room" is a room or enclosed floor space arranged for living, eating, food preparation, or dormitory sleeping purposes. It does not include bathrooms, toilet compartments, foyers, hallways, or other accessory floor spaces. Any reference to "habitable dwelling" in this chapter means a temporary structure not used as a single family dwelling.

"Interior finish" is the surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the commercial coach structure, including paint and wallpaper. Decorations or furnishings attached to the commercial coach structure are considered part of the interior finish.

"Live load" is the weight superimposed by the use and occupancy of the commercial coach, including wind load and snow load, but not including dead load.

"Perimeter blocking" is support placed under exterior walls.

"Shear wall" is a wall designed and constructed to transfer lateral loads.

"Tiedown" is a device designed to anchor a commercial coach to ground anchors.

"Use" or "occupancy classification" is the designed purpose of a commercial coach according to the ~~((Uniform))~~ International Building Code.

"Wind load" is the lateral or vertical pressure or uplift created by wind blowing in any direction.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-1150 Hallways. (1) Hallways in structures required to meet accessibility standards must have a minimum horizontal dimension that conforms to accessibility

standards set by the ~~((Washington state Uniform))~~ International Building Code, current edition, standards set in the accessibility standard in WAC 296-150C-0800 (1)(d).

(2) Hallways in nonaccessible construction site trailers must have a minimum horizontal dimension of 32 inches.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1330 Mechanical—General. This chapter applies to the installation of mechanical, ventilation, and indoor air quality equipment in any commercial coach bearing or required to bear a department insignia. Mechanical, ventilation, and indoor air quality equipment and installations in or on a commercial coach shall be installed according to the requirements of the ~~((Uniform))~~ International Mechanical Code ~~((, the Washington State Ventilation and Indoor Air Quality Code, the rules of this chapter, and the conditions of the equipment approval or listing agency))~~, current edition.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1340 Mechanical definitions. Definitions contained in the ~~((current adopted edition of the Uniform))~~ International Mechanical Code, current edition, and the following definitions apply to the commercial coaches.

"Accessible" is having access to a fixture, connection, appliance, or equipment that requires the removal of an access panel, door, or similar obstruction.

"Appliance compartment" is a room having a floor area not in excess of twice the largest plan area of the room's appliance or appliances plus clearances required in this chapter.

"Automatic pilot device" is a device employed with gas-burning equipment that will either automatically shut off the gas supply to the burner being served or automatically activate, electrically or otherwise, a gas shutoff device when the pilot flame is extinguished.

"Btuh" is British thermal units per hour.

"Clearance" is the distance between the appliance, chimney, vent, or chimney or vent connector, or plenum and the nearest surface.

"Combustible material" is a material adjacent to or in contact with a heat-producing appliance, vent connector, chimney, or steam and hot water pipes, made of or surfaced with wood, compressed paper, plant fibers, or other products that will ignite and burn. Such material must be considered combustible even though flame-proofed, fire-retardant treated, or plastered.

"Connector-gas appliance" is a flexible or semi-rigid connector listed as conforming to ANSI Standard Z21.24, Metal Connectors for Gas Appliances, used to convey fuel gas, three feet or less in length (six feet or less for gas ranges), between a gas outlet and a gas appliance in the same room.

"Fuel gas piping system" is the arrangement of piping, tubing, fittings, connectors, valves, and devices designed and intended to supply or control the flow of fuel gas to an appliance.

"**Gas**" is fuel gas, such as natural gas, manufactured gas, undiluted liquefied petroleum gas (vapor phase only), liquefied petroleum air-gas mixtures, or mixtures of these gases that would ignite in the presence of oxygen.

"**Gas-supply connection**" is the terminal end or connection to which a gas-supply connector is attached.

"**Input rating**" is the maximum fuel-burning capacity of any warm-air furnace, recessed heater, or burner expressed in British thermal units per hour.

"**Liquefied petroleum gases (LPG)**" is any material that is composed predominantly of propane, propylene, butanes (normal butane or isobutane), and butylenes, or any mixture of them.

"**Quick-disconnect device**" is a hand-operated means of connecting and disconnecting a gas supply or connecting gas systems and is equipped with an automatic device to shut off the gas supply when disconnected.

"**Readily accessible**" is having direct access without the necessity of removing any panel, door, or similar obstruction.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1470 Ventilation and indoor air quality—General. Ventilation and indoor air quality equipment and installations in or on a commercial coach must be made according to the requirements of ~~((the Washington State Ventilation and Indoor Air Quality Code,))~~ the ~~((Uniform))~~ International Mechanical Code, current edition, the rules of this chapter, and the conditions of the equipment approval.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-1480 Ventilation and indoor air quality definitions. ~~((Definitions contained in the current adopted edition of the Washington State Ventilation and Indoor Air Quality Code and))~~ The ~~((Uniform))~~ International Mechanical Code, current edition, and the following definitions apply to the commercial coach ventilation and indoor air quality rules in this chapter.

"**Duct**" is a conduit or passageway for conveying air to or from heating, cooling, air conditioning, or ventilation equipment, not including the plenum.

"**Plenum**" is an air compartment that is part of an air-distributing system to which one or more ducts are connected.

- **A furnace-supply plenum** is a plenum attached directly to, or an integral part of, the air-supply outlet of the furnace.
- **A furnace-return plenum** is a plenum attached directly to, or an integral part of, the return inlet of the furnace.

"**Vent connector**" is a pipe for conveying products of combustion from a fuel-burning appliance to a vent.

"**Water heater**" is an appliance for heating water for domestic purposes other than for space heating.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150F-0020 What definitions apply to this chapter? "**Approved**" is approved by the department of labor and industries.

"**Building site**" is a tract, parcel, or subdivision of land on which a factory-built house or commercial structure will be installed.

"**Component**" is a part or element of another system as defined by the International Building Code, section 202, and is:

- Designed to be installed in a structure;
- Manufactured as a unit; and
- Designed for a particular function or group of functions.

A component may be a service core or other assembly that is a factory assembled section of a building. It may include mechanical, electrical, plumbing, and related systems. It may be a complete kitchen, bathroom, or utility room. Service cores are referred to as "wet boxes," "mechanical cores," or "utility cores."

Note: A roof truss is not considered a component.

"**Damaged in transit**" is damage that effects the integrity of the structural design or damage to any other system referenced in the codes required by the State Building Code, or other applicable codes.

"**Department**" is the department of labor and industries. The department may also be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"**Design plan**" is a plan for the construction of factory-built housing, commercial structures, or components that includes floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"**Design option**" is a design that a manufacturer may use as an option to its design plan.

"**Educational facility**" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"**Equipment**" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of factory-built housing, commercial structures, and components.

"**Factory assembled structure (FAS) advisory board**" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to factory-built housing, commercial structures and components. (See RCW 43.22.420.)

"**Health or personal care facilities**" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment

facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC ~~((296-46B-010))~~ 296-46B-900.)

"Insignia" is a label that we attach to a structure to verify that a factory-built house or commercial structure meets the requirements of this chapter. It could also be a stamp or label attached to a component to verify that it meets the requirements of this chapter.

"Install" is to erect or set in place a structure at a building site. It may also be the construction or assembly of a component as part of a factory-built house or commercial structure.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Listing agency" is an organization whose business is approving equipment, components, or installations for publication.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of factory-built housing and commercial structures.

"Manufacturing" is making, fabricating, forming, or assembling a factory-built house, commercial structure, or component.

"Master design plan" is a design plan that expires when a new State Building Code has been adopted.

~~((**"Manufacturing"** is making, fabricating, forming, or assembling a factory-built house, commercial structure, or component.))~~

"One-year design plan" is a design plan that expires one year after approval or when a new State Building Code has been adopted.

"Repair" is the replacement, addition, modification, or removal of any construction, equipment, system, or installation to correct damage in transit or during on-site installation before occupancy.

"Temporary factory built structure" is a building not set on a permanent foundation, which is used for temporary occupancy such as an educational, commercial, or agricultural building. The building must meet the requirements of this chapter and the installation requirements. As required under RCW 43.22.480 all alterations to temporary factory built structures must be preapproved by the department.

"Unit" is a factory-built house, commercial structure, or component.

"Used structure" is a building as defined by section 202 of the International Building Code that has been given a certificate of occupancy by the local building department and has been occupied.

NEW SECTION

WAC 296-150F-0090 What are the requirements for certified plumbers and electricians? Plumbers certified under chapter 18.106 RCW and electricians certified under chapter 19.28 RCW are required for units constructed in Washington. For the purposes of construction at the manufacturing facility, the manufacturer is not required to be a licensed electrical contractor under chapter 19.28 RCW or a registered contractor as required by chapter 18.27 RCW. Manufacturers may hire registered plumbing contractors or licensed electrical contractors to meet this requirement.

Work performed outside the manufacturer's facility must be performed by a registered contractor under chapter 18.27 RCW, electrical contractor and electricians under chapter 19.28 RCW, and certified plumbers under chapter 18.106 RCW.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0230 What are the insignia application requirements? (1) If you are requesting insignia for units that you intend to manufacture under a *new design plan*, your completed application must include:

- (a) A completed design plan approval request form;
- (b) ~~((One))~~ Two complete sets of design plans, specifications, engineering analysis, test procedures and results, plus one additional set for each manufacturing location where the design plan will be used;
- (c) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. We will retain the set with the original wet stamp; and
- (d) A one-time initial filing fee, the design plan fee (if we approve your design plan) and the fee for each insignia. (See WAC 296-150F-3000.)

(2) If you are requesting insignia under an *approved design plan*, your completed application must include:

- (a) A completed application for insignia form; and
- (b) The fee for each insignia requested. (See WAC 296-150F-3000.)

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0310 Who can approve design plans? (1) Design plans can be approved by us or by a licensed professional or firm authorized by us (see WAC 296-150F-0420 and 296-150F-0430).

(2) All electrical design plans for new or altered electrical installations for educational (~~((institutions))~~), institutional, health care facilities, and other buildings (see ~~((chapters 296-46, 296-130, 296-140, and 296-150 WAC Table 1 or 2))~~) WAC 296-46B-900) must be reviewed and approved by us.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;

(2) Two complete sets of design plans, specifications, engineering analysis, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150F-0340 and 296-150F-0350);

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) A one-time initial filing fee and the design-plan fee (see WAC 296-150F-3000); and

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

(6) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(7) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(8) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320((180-

295)) and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(9) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

NEW SECTION

WAC 296-150F-0325 What are the requirements for temporary built structures? Structures built for temporary use must meet all the requirements of this chapter.

NEW SECTION

WAC 296-150F-0495 Contractor deposit accounts. Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 07-05-063, filed 2/20/07, effective 4/1/07)

WAC 296-150F-0580 Must I obtain an insignia for used factory-built structures? All used factory-built housing and commercial structures that are to be installed on a building site in Washington state must have an insignia of approval from the department prior to being installed on a building site or it must be approved by the local building official as a moved building or structure as allowed by section ((401.2)) 3410 of the International Building Code.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0600 What manufacturing codes apply to factory-built housing and commercial structures? (1) All design, construction, installations, and alterations of factory-built housing, commercial structures, and components must conform with the following codes and the requirements of this chapter:

(a) The State Building Code, chapter 19.27 RCW;

Note: The ((Uniform)) International Building Code reference to "building official" means the chief prefabricated building specialist or authorized representative at the department of labor and industries.

(b) The Energy Related Building Standards, chapter 19.27A RCW;

(c) The National Electrical Code as referenced in chapter 19.28 RCW and chapter(~~(s 296-46 and 296-401)~~) 296-46B WAC.

(2) All construction methods and installations must use accepted engineering practices, provide minimum health and safety to the occupants of factory-built structures and the public, and demonstrate journey person quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards, provided the deviation does not result in inferior installation or defeat the purpose and intent of the standard.

Note: The codes, RCW's, and WAC's referenced in this rule are available for reference at the Washington State Library, the Washington State Law Library, and may be available at your local library.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building? Under the following conditions, the department will allow the required toilet facilities to be located in adjacent building(s):

(1) The manufacturer shall note in the plan submittal that the requirements of IBC Chapter 29, Section (~~(2902)~~) 2902.1 and Section (~~(2902.1)~~) 2902.2, as amended by the state building code must be verified by the building official; and

(2) A Notification to Local Enforcement Agency (NLEA) must accompany each unit so that the requirements of IBC Chapter 29, Section (~~(2902)~~) 2902.1 and Section (~~(2902.1)~~) 2902.2 as amended by the state building code can be verified by the building official.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

WAC 296-150P-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, (~~(1998)~~) current edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" see Appendix 'C' of ANSI A119.5 for reference to the appropriate edition to use for compliance.

"Recreational park trailer" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

AMENDATORY SECTION (Amending WSR 08-10-075, filed 5/6/08, effective 6/6/08)

WAC 296-150R-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel

systems and equipment or electrical systems of a recreational vehicle.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a vehicle alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to *Low Voltage Systems in Conversion and Recreational Vehicles and Uniform Plan Approval for Recreational Vehicles*. For the purposes of this chapter, references to ANSI mean ANSI/RVIA 12V *Low Voltage Systems* ((2008)), current edition, and ANSI/RVIA UPA-1 *Standard on Uniform Plan Approval for Recreational Vehicles* ((2003)), current edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"Consumer" is a person or organization who buys or leases recreational vehicles.

"Dealer" is a person or organization whose business is offering recreational vehicles for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle manufacturer.

"National Electrical Code" see Chapter 2 of NFPA 1192 *Standard on Recreational Vehicles*, ((2008)) current edition, for reference to the appropriate edition to use for compliance.

"NFPA" is National Fire Protection Association, and the institute's rules applicable to recreation vehicles. For the

purpose of this chapter, references to NFPA means NFPA 1192 *Standard on Recreational Vehicles*, ((2008)) current edition.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter, ANSI, and NFPA.

"Recreational vehicle" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle or as defined by NFPA 1192 *Standard on Recreational Vehicles*, current edition. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

"Self-certification insignia" is an insignia which is obtained under the self-certification approval process.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational vehicle that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"Vehicle" for the purposes of this chapter, is a recreational vehicle.

AMENDATORY SECTION (Amending WSR 99-12-079, filed 5/28/99, effective 6/28/99)

WAC 296-150T-0200 Who must purchase factory-built temporary worker housing insignia? (1) You must obtain insignia from us for each factory-built temporary worker (~~housing~~) housing unit sited in Washington state.

(2) You must have an approved design plan and have passed inspection before an insignia can be attached to your factory-built temporary worker housing structure by us or our authorized agent.

(3) If a unit is damaged in transit after leaving the manufacturing location or during an on-site installation, and a repair is necessary, you must purchase a new insignia from us. The new insignia indicates that the unit was repaired.

NEW SECTION

WAC 296-150T-0495 Contractor deposit accounts. Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 99-12-079, filed 5/28/99, effective 6/28/99)

WAC 296-150T-0600 What manufacturing codes apply to factory-built temporary worker housing? (1) All design, construction, installations, and alterations of factory-built temporary worker housing structures must conform with the following codes and the requirements of this chapter:

(a) The temporary worker housing construction code, chapter 246-359 WAC;

(b) The National Electrical Code as referenced in chapter 19.28 RCW and in chapter ~~((296-46))~~ 296-46B WAC.

(2) All construction methods and installations must comply with chapter 246-359 WAC and use accepted engineering practices when used, provide minimum health and safety to the occupants of factory-built temporary worker housing structures and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards, provided the deviation does not result in inferior installation or defeat the purpose and intent of the standard.

Note: The codes, RCWs, and WACs referenced in this rule are available for reference at the Washington State Library, the Washington State Law Library, and may be available at your local library.

NEW SECTION

WAC 296-150V-0495 Contractor deposit accounts.

Manufacturers are required to open and maintain, for the purpose of inspection payments, a deposit account. Funds, for the purpose of inspections performed by the department, must be withdrawn from the account and all inspections paid in full prior to an insignia being placed on the manufactured unit.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

WAC 296-150V-0800 What codes apply to conversion vendor units or medical units? (1) A conversion vendor unit or medical unit must comply with the following codes where applicable:

(a) The ~~((Uniform))~~ current edition of the International Mechanical Code, with the amendments made by the Washington State Building Code Council, chapter ~~((51-42))~~ 51-52 WAC.

(b)(i) For conversion vending/medical units Article 551, Parts I through VI of National Electrical Code/National Fire Protection Agency (NFPA) 70, ~~((2002))~~ current edition or Article 552, Parts I through V Article of National Electrical Code/National Fire Protection Agency (NFPA) 70, ~~((2002))~~ current edition.

(ii) For medical units the National Electrical Code ~~((NFPA 70, current edition))~~ as referenced in ~~((chapter 19.28 RCW))~~ Article 517 for Patient Care Areas and chapter ~~((296-46A))~~ 296-46B WAC ~~((, installing electric wires and equipment)).~~

(c) Chapter 7 of ~~((American National Standards Institute (ANSI) A119.2, 2002))~~ the National Fire Protection Association (NFPA 1192), current edition or the Uniform Plumbing Code as adopted and amended according to chapter 19.27 RCW.

(d) The Washington State Building Code Council, chapter ~~((51-40))~~ 51-50 WAC, ~~((Uniform))~~ International Building Code, Chapter 11, Accessibility as applies to the exterior of the unit relating to customer service facilities in section 1105.4.7.

~~((e) The Washington State Energy Code, as adopted according to chapter 19.27A RCW, and the Washington State Ventilation and Indoor Air Quality Code, chapter 51-13 WAC, when heating and/or air conditioning is installed.)~~

(2) Provide minimum health and safety to the occupants of conversion vendor units and medical units and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The conversion vendor unit or medical unit may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

Exception: Sign circuits required by Article 600 of the National Electrical Code will not be required.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150V-1180 What requirements apply to conversion vendor unit exits ~~((on all units approved after December 31, 1999))~~? At least one conversion vending unit exit or medical unit exit must meet the following requirements:

(1) Exterior doors must be constructed for exterior use.

(2) The exterior door must be at least a twenty-eight inch wide clear opening by seventy-two inches high.

(3) Locks must be operable from the interior of the unit without use of a key.

(4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.

(5) Existing units with doors less than twenty-eight inches in width must have a second means of exit. The second means of exit for converted units shall be twenty-four inches by seventeen inches, and for newly built units exits must be a minimum of five square feet of openable area.

(6) Pass-through windows shall be safety glazed based on the IBC Section 2406.1.

Exception: When there are employees, a minimum of twenty-eight inches clear opening must be provided.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-1185 What exit door requirements apply to self-propelled medical unit exits? Exit door(s) on self-propelled medical units must meet the following requirements:

(1) Exterior doors must be constructed for exterior use.

(2) The exterior door must be at least a twenty-eight inches wide clear opening by seventy-two inches high.

(3) Locks must be operable from the interior of the unit without use of a key.

(4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.

(5) ~~((Units over twenty four feet in length must have a minimum of two exit doors.))~~ Exit doors where the threshold

of the door is more than fourteen inches above the adjacent grade or road surface must have landings, stairs, handrail, and guardrails meeting the requirements of IBC chapter 10 as referenced in chapter 51-50 WAC.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-1330 What are the mechanical requirements for a conversion vendor unit or medical unit? When mechanical and ventilation equipment is installed in or on a conversion vendor unit or medical unit, it must be installed according to the requirements of the (~~Uni-form~~) International Mechanical Code, and to the conditions of the equipment approval or listing.

WSR 12-15-079

PERMANENT RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed July 18, 2012, 10:05 a.m., effective August 18, 2012]

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

Purpose: Provided clarification to school districts on the process to license a school bus. School districts are no longer required to submit a copy of the school bus operation permit (issued by OSPI) to the county auditor or license agent to obtain an exempt plate.

In addition, the process for a school district to obtain a school bus operation permit was clarified.

Chapter 392-143 WAC, Specifications for school buses.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-143-030; and amending WAC 392-143-032.

Statutory Authority for Adoption: RCW 46.61.380.

Adopted under notice filed as WSR 12-11-026 on May 8, 2012.

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

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

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

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

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

Date Adopted: July 5, 2012.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 12-01-075, filed 12/19/11, effective 1/19/12)

WAC 392-143-032 School bus operation permit. The superintendent of public instruction shall issue school bus operation permits as follows:

(1) School buses owned or operated by a school district or owned by a private contractor under contract to a school district shall be issued a school bus operation permit on receipt of the following electronic files or documents for each new school bus or used school bus not previously issued a school bus operation permit in Washington state:

(a) SPI Form 1020A, School Bus Acquisition Report; and

(b) SPI Form 1029, Initial School Bus Inspection.

(2) A school bus operation permit shall be reissued on receipt of the following electronic files or documents for school buses previously licensed in Washington state:

(a) SPI Form 1020A, School Bus Acquisition Report, from the school district acquiring the school bus; and

(b) SPI Form 1029, Initial School Bus Inspection, if the most recent school bus inspection was more than twelve months prior to the date of acquisition.

(3) A copy of the operation permit shall be retained by the school district and a copy shall be placed in the permit holder in the school bus.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-143-030	School buses—School bus operating permit and license.
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WSR 12-15-087

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed July 18, 2012, 11:29 a.m., effective August 18, 2012]

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

Purpose: The department is amending chapter 388-106 WAC, Long-term care services. Amendments are necessary to implement adult day health changes as required under 3ESHB 2127 (2012 supplemental budget).

Citation of Existing Rules Affected by this Order: WAC 388-106-0300, 388-106-0305, and 388-106-0815.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Other Authority: 3ESHB 2127.

Adopted under notice filed as WSR 12-12-075 on June 6, 2012.

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

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

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

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

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

Date Adopted: July 16, 2012.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-24-026, filed 11/28/07, effective 1/1/08)

WAC 388-106-0300 What services may I receive under community options program entry system (COPES) when I live in my own home? When you live in your own home, you may be eligible to receive only the following services under COPES:

(1) Personal care services as defined in WAC 388-106-0010 in your own home and, as applicable, while you are out of the home accessing community resources or working.

(2) Adult day care if you meet the eligibility requirements under WAC 388-106-0805.

(3) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes; and

(e) Are not adaptations or improvements, which are of general utility or add to the total square footage.

(4) Home delivered meals, providing nutritional balanced meals, limited to one meal per day, if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(5) Home health aide service tasks in your own home, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands-on personal care;

(b) Are beyond the amount, duration or scope of medicaid reimbursed home health services as described in WAC ((~~388-551-2120~~)) 182-551-2120 and are in addition to those available services;

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

(d) Do not replace medicare home health services.

(6)(a) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if:

(i) You live alone in your own home;

(ii) You are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time; or

(iii) No one in your home, including you, can secure help in an emergency.

(b) A medication reminder if you:

(i) Are eligible for a PERS unit;

(ii) Do not have a caregiver available to provide the service; and

(iii) Are able to use the reminder to take your medications.

(7) Skilled nursing, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of medicaid-reimbursed home health services as provided under WAC ((~~388-551-2100~~)) 182-551-2100.

(8) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC ((~~388-500-0005~~)) 182-500-0700;

(b) Necessary for: Life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live;

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under medicaid and/or medicare.

(9) Training needs identified in CARE or in a professional evaluation, which meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(10) Transportation services, when the service:

(a) Provides access to community services and resources to meet your therapeutic goal;

(b) Is not diverting in nature; and

(c) Is in addition to and does not replace the medicaid-brokered transportation or transportation services available in the community.

(11) Nurse delegation services, when:

(a) You are receiving personal care from a registered or certified nursing assistant who has completed nurse delegation core training;

(b) Your medical condition is considered stable and predictable by the delegating nurse; and

(c) Services are provided in compliance with WAC 246-840-930.

(12) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities. The frequency and scope of the nursing services is based on your individual need as determined by your CARE assess-

ment and any additional collateral contact information obtained by your case manager.

- (a) Nursing assessment/reassessment;
- (b) Instruction to you and your providers;
- (c) Care coordination and referral to other health care providers;
- (d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In non-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.
- (e) File review; and/or
- (f) Evaluation of health-related care needs affecting service plan and delivery.

(13) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to set up your own home. Services:

(a) May include: Safety deposits, utility set-up fees or deposits, health and safety assurances such as pest eradication, allergen control or one-time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution; and

(b) Do not include rent, recreational or diverting items such as TV, cable or VCRs.

(14) Adult day health services as described in WAC 388-71-0706 when you are:

(a) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714 and:

(i) There is a reasonable expectation that these services will improve, restore or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain or suffering;

(ii) You are at risk for deteriorating health, deteriorating functional ability, or institutionalization; and

(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment.

(b) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met.

(c) You are not eligible for adult day health if you:

(i) Can independently perform or obtain the services provided at an adult day health center;

(ii) Have referred care needs that:

(A) Exceed the scope of authorized services that the adult day health center is able to provide;

(B) Do not need to be provided or supervised by a licensed nurse or therapist;

(C) Can be met in a less structured care setting;

(D) In the case of skilled care needs, are being met by paid or unpaid caregivers;

(E) Live in a nursing home or other institutional facility;

or
(F) Are not capable of participating safely in a group care setting.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0305 What services may I receive under COPEs if I live in a residential facility? If you live in one of the following residential facilities: A licensed boarding home contracted with the department to provide assisted living, enhanced adult residential care, enhanced adult residential care-specialized dementia care or an adult family home, you may be eligible to receive only the following services under COPEs:

(1) Personal care services as defined under WAC 388-106-0010.

(2) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, when the items are:

(a) Medically necessary under WAC 388-500-0005; and

(b) Necessary: For life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live; and

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under medicaid and/or medicare; and

(e) In addition to and do not replace the services required by the department's contract with a residential facility.

(3) Training needs identified in CARE or in a professional evaluation, that are in addition to and do not replace the services required by the department's contract with the residential facility and that meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(4) Transportation services, when the service:

(a) Provides access to community services and resources to meet a therapeutic goal;

(b) Is not diverting in nature;

(c) Is in addition to and does not replace the medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential facilities.

(5) Skilled nursing, when the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse;

(b) Beyond the amount, duration or scope of medicaid-reimbursed home health services as provided under WAC 388-551-2100; and

(c) In addition to and does not replace the services required by the department's contract with the residential facility (e.g. intermittent nursing services as described in WAC 388-78A-2310).

(6) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities. The frequency and scope of the nursing services is based on your individual need as determined by your CARE assessment and any additional collateral contact information obtained by your case manager.

- (a) Nursing assessment/reassessment;
- (b) Instruction to you and your providers;
- (c) Care coordination and referral to other health care providers;
- (d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In none-emergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.
- (e) File review; and/or
- (f) Evaluation of health-related care needs affecting service plan and delivery.

(7) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to live in a residential facility. Services:

(a) May include: Safety deposits, utility set up fees or deposits, health and safety assurances such as pest eradication, allergen control or one time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution.

(b) Do not include rent, recreational or diverting items such as TV, cable or VCRs.

(8) Adult day health services as described in WAC 388-71-0706 when you are:

(a) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714, and:

(i) There is a reasonable expectation that these services will improve, restore or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain or suffering;

(ii) You are at risk for deteriorating health deteriorating functional ability, or institutionalization; and

(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment.

(b) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met.

(c) You are not eligible for adult day health if you:

(i) Can independently perform or obtain the services provided at an adult day health center;

(ii) Have referred care needs that:

(A) Exceed the scope of authorized services that the adult day health center is able to provide;

(B) Do not need to be provided or supervised by a licensed nurse or therapist;

(C) Can be met in a less structured care setting;

(D) In the case of skilled care needs, are being met by paid or unpaid caregivers;

(E) Live in a nursing home or other institutional facility;

or

(F) Are not capable of participating safely in a group care setting.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0815 Am I eligible for adult day health? ~~((1) You are eligible for adult day health services if you meet all of the following criteria. You are:~~

~~(a) Age eighteen years or older.~~

~~(b) Enrolled in one of the following medical assistance programs:~~

~~(i) Categorically needy (CNP);~~

~~(ii) Categorically needy qualified medicare beneficiaries (CNP-QMB);~~

~~(iii) General assistance—Expedited medicaid disability (GA-X); or~~

~~(iv) Alcohol and Drug Abuse Treatment and Support Act (ADATSA).~~

~~(c) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714; and~~

~~(i) There is a reasonable expectation that these services will improve, restore or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain or suffering; and~~

~~(ii) You are at risk for deteriorating health, deteriorating functional ability, or institutionalization; and~~

~~(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment.~~

~~(d) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met.~~

~~(2) You are not eligible for adult day health if you:~~

~~(a) Can independently perform or obtain the services provided at an adult day health center;~~

~~(b) Have referred care needs that:~~

~~(i) Exceed the scope of authorized services that the adult day health center is able to provide;~~

~~(ii) Do not need to be provided or supervised by a licensed nurse or therapist;~~

~~(iii) Can be met in a less structured care setting; or~~

~~(iv) In the case of skilled care needs, are being met by paid or unpaid caregivers.~~

~~(c) Live in a nursing home or other institutional facility;~~

or

~~(d) Are not capable of participating safely in a group care setting.)~~

You are eligible for adult day health if you meet the conditions described in WAC 388-106-0300 or 388-106-0305.