

**WSR 12-23-059**  
**EXPEDITED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Commission Docket A-121496—Filed November 19, 2012, 10:20 a.m.]

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

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

<b>Proposed Rule Changes</b>			
<b>Adoption by Reference Date Changes and Other Changes</b>			
<b>Docket A-121496</b>			
<b>Chapter 480-14 WAC, Motor carriers excluding household goods carriers and common carrier brokers.</b>			
Amend	480-14-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>Title 49, Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following:                             <ul style="list-style-type: none"> <li>- Part 171 - General Information, Regulations and Definitions - see Note 1.</li> <li>- Part 172 - Hazardous Materials Table, etc. - see Note 2.</li> <li>- Part 173 - Shippers General Requirements for Shipping and Packages - see Note 3.</li> </ul> </li> </ul>
<b>Chapter 480-15 WAC, Household goods carriers.</b>			
Amend	480-15-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2012</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following:                             <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 375 - Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - see Note 5.</li> <li>- Part 379 - Preservation of Records - no changes since last adoption.</li> <li>- Part 380 - Special Training Requirements - no changes since last adoption.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 6.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 7.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 8.</li> <li>- Part 390 - Safety Regulations, General - see Note 9.</li> <li>- Part 391 - Qualification of Drivers - see Note 10.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 11.</li> <li>- Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 12.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 13.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 14.</li> </ul> </li> </ul>

			- Part 397 - Transportation of Hazardous Materials - see Note 15.
<b>Chapter 480-30 WAC, Passenger transportation companies.</b>			
Amend	480-30-900	General requirements for interstate operations.	Amends rule to remove reference to 49 C.F.R. Part 1023 which no longer exists. The single state registration program was replaced with the Unified Carrier Registration program in 2007.
Amend	480-30-910	Registered carriers.	Amends rule to remove reference to 49 C.F.R. Part 1023 which no longer exists. The single state registration program was replaced with the Unified Carrier Registration program in 2007.
Repeal	480-30-920	Registered exempt carriers.	Rule is no longer necessary.
Amend	480-30-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2012</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following: <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 379 - Preservation of Records - no changes since last adoption.</li> <li>- Part 380 - Special Training Requirements - no changes since last adoption.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 6.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 7.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 8.</li> <li>- Part 390 - Safety Regulations, General - see Note 9.</li> <li>- Part 391 - Qualification of Drivers - see Note 10.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 11.</li> <li>- Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 12.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 13.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 14.</li> <li>- Part 397 - Transportation of Hazardous Materials - see Note 15.</li> </ul> </li> </ul>
<b>Chapter 480-31 WAC, Private, nonprofit transportation providers.</b>			
Amend	480-31-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2012</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following: <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 379 - Preservation of Records - no changes since last adoption.</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>- Part 380 - Special Training Requirements - no changes since last adoption.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 6.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 7.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 8.</li> <li>- Part 390 - Safety Regulations, General - see Note 9.</li> <li>- Part 391 - Qualification of Drivers - see Note 10.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 11.</li> <li>- Part 393 - Parts and Accessories Necessary for Safe Operations - see Note 12.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 13.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 14.</li> <li>- Part 397 - Transportation of Hazardous Materials - see Note 15.</li> </ul>
<b>Chapter 480-62 WAC, Railroad companies—Operations.</b>			
Amend	480-62-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following parts: <ul style="list-style-type: none"> <li>- Part 171 - General Information, Regulations, and Definitions - see Note 1.</li> <li>- Part 172 - Emergency Response Information, Training Requirements, and Security Plans - see Note 2.</li> <li>- Part 173 - Shippers General Requirements for Shipments and Packages - see Note 3.</li> <li>- Part 174 - Carriage by Rail - see Note 16.</li> <li>- Part 178 - Specifications for Packagings - see Note 17.</li> <li>- Part 179 - Specifications for Tank Cars - see Note 18.</li> <li>- Part 209 - Railroad Safety Enforcement Procedures - see Note 19.</li> <li>- Part 211 - Rules of Practice - no changes made since last adoption date.</li> <li>- Part 212 - State Safety Participation Regulations - no changes made since last adoption date.</li> <li>- Part 213 - Track Safety Standards - see Note 20.</li> <li>- Part 214 - Railroad Workplace Safety - see Note 21.</li> <li>- Part 217 - Railroad Operating Rules - see Note 22.</li> <li>- Part 218 - Railroad Operating Practices - see Note 23.</li> <li>- Part 219 - Control of Alcohol and Drug Use - see Note 24.</li> <li>- Part 220 - Railroad Communications - see Note 25.</li> <li>- Part 221 - Rear-end Marking Device - see Note 26.</li> <li>- Part 225 - Railroads Accidents/Incidents - see Note 27.</li> <li>- Part 228 - Hours of Service of Railroad Employees - see Note 28.</li> <li>- Part 234 - Grade Crossing Signal System Safety - see Note 29.</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>- Part 239 - Passenger Train Emergency Preparedness - see Note 30.</li> <li>- Part 240 - Qualification and Certification of Locomotive Engineers - see Note 31.</li> <li>- Part[s] 570.6 and 570.7 - Vehicle in Use Inspection Standards - no changes made since last adoption date.</li> <li>• <b>Manual on Uniform Traffic Control Devices (MUTCD)</b>, amends the effective date to <b>October 5, 2012</b>; amends the effective date of adoption to <b>October 5, 2012</b>, for the following safety standards:             <ul style="list-style-type: none"> <li>- <b>ANSI Z308.1-2009, American National Standard for Minimum Requirements for Workplace First Aid Kits</b> - see Note 32.</li> <li>- <b>ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests</b> - see Note 33.</li> </ul> </li> </ul>
<p><b>Chapter 480-70 WAC, Solid waste and/or refuse collection companies.</b></p>			
Amend	480-70-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>North American Standard Out-Of-Service Criteria</b>, amends the effective date to <b>April 1, 2012</b> - no significant changes - new edition of previously adopted reference.</li> <li>• <b>Title 40 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following:             <ul style="list-style-type: none"> <li>- Part 262 - Standards Applicable to Generators of Hazardous Waste - no changes made since last adoption date.</li> </ul> </li> <li>• <b>Title 49 Code of Federal Regulations</b>, amends the effective date of adoption to <b>October 5, 2012</b>, for the following:             <ul style="list-style-type: none"> <li>- Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs - see Note 4.</li> <li>- Part 171 - General Information, Regulations, and Definitions - see Note 1.</li> <li>- Part 172 - Hazardous Materials Table, etc. - see Note 2.</li> <li>- Part 173 - Shippers General Requirements for Shipping and Packages - see Note 3.</li> <li>- Part 174 - Carriage by Rail - see Note 16.</li> <li>- Part 175 - Carriage by Aircraft - see Note 34.</li> <li>- Part 176 - Carriage by Vessel - see Note 35.</li> <li>- Part 177 - Carriage by Public Highway - see Note 36.</li> <li>- Part 178 - Specifications for Packagings - see Note 17.</li> <li>- Part 179 - Specifications for Tank Cars - see Note 18.</li> <li>- Part 180 - Continuing Qualification and Maintenance of Packagings - see Note 37.</li> <li>- Part 379 - Preservation of Records - no changes since last adoption.</li> <li>- Part 380 - Special Training Requirements - no changes since last adoption.</li> <li>- Part 382 - Controlled Substance and Alcohol Use and Testing - see Note 6.</li> <li>- Part 383 - Commercial Driver's License Standards; Requirements and Penalties - see Note 7.</li> <li>- Part 385 - Safety Fitness Procedures - see Note 8.</li> <li>- Part 390 - Safety Regulations, General - see Note 9.</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>- Part 391 - Qualification of Drivers - see Note 10.</li> <li>- Part 392 - Driving of Commercial Motor Vehicles - see Note 11.</li> <li>Part 393 - Parts and Accessories Necessary for Safe Operation - see Note 12.</li> <li>- Part 395 - Hours of Service of Drivers - see Note 13.</li> <li>- Part 396 - Inspection, Repair and Maintenance - see Note 14.</li> <li>- Part 397 - Transportation of Hazardous Materials - see Note 15.</li> </ul>
<b>Chapter 480-75 WAC, Hazardous liquid pipelines—Safety.</b>			
Amend	480-75-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>Title 49 Code of Federal Regulations:</b> <ul style="list-style-type: none"> <li>o <b>October 1, 2012</b> - Part 195                             <ul style="list-style-type: none"> <li>■ No significant changes - new edition previously adopted by reference.</li> </ul> </li> <li>o <b>October 1, 2012</b> - Part 199                             <ul style="list-style-type: none"> <li>■ No significant changes - new edition previously adopted by reference.</li> </ul> </li> </ul> </li> <li>• <b>The commission adopts API RP standard 1117 Third Edition, July 2008, including errata December 2008 and errata 2 (August 2009).</b> <ul style="list-style-type: none"> <li>o No significant changes - new edition previously adopted by reference.</li> </ul> </li> <li>• <b>Copies of API standard 1117 Third Edition, July 2008, including errata December 2008 and errata 2 August 2009 are available from API, <a href="http://www.api.org/">http://www.api.org/</a>. It is also available for inspection at the commission.</b> <ul style="list-style-type: none"> <li>o No significant changes - new edition previously adopted by reference.</li> </ul> </li> </ul>
<b>Chapter 480-90 WAC, Gas companies—Operations.</b>			
Amend	480-90-999	Adoption by reference.	<p>1. Adoption by reference date changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>Title 18 Code of Federal Regulations:</b> <b>April 1, 2012.</b></li> </ul>
<b>Chapter 480-93 WAC, Gas companies—Safety.</b>			
Amend	480-93-999	Adoption by reference.	<p>1. Adoption by reference dates changed as follows:</p> <ul style="list-style-type: none"> <li>• <b>Title 49 Code of Federal Regulations:</b> <ul style="list-style-type: none"> <li>o <b>October 1, 2012</b> - Part 191                             <ul style="list-style-type: none"> <li>■ No significant changes - new edition previously adopted by reference.</li> </ul> </li> <li>o <b>October 1, 2012</b> - Part 192                             <ul style="list-style-type: none"> <li>■ No significant changes - new edition previously adopted by reference.</li> </ul> </li> <li>o <b>October 1, 2012</b> - Part 193                             <ul style="list-style-type: none"> <li>■ No significant changes - new edition previously adopted by reference.</li> </ul> </li> <li>o <b>October 1, 2012</b> - Part 199                             <ul style="list-style-type: none"> <li>■ No significant changes - new edition previously adopted by reference.</li> </ul> </li> </ul> </li> </ul>

<b>Chapter 480-100 WAC, Electric companies.</b>			
Amend	480-100-999	Adoption by reference.	1. Adoption by reference date changed as follows: <ul style="list-style-type: none"> <li>• <b>National Electrical Code: January 24, 2012.</b></li> </ul>
<b>Chapter 480-108 WAC, Electric companies—Interconnection with electric generators.</b>			
Amend	480-108-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>National Electrical Code: January 24, 2012.</b></li> <li>• <b>Washington industrial safety and health administration (WISHA) standard, chapter 296-155 WAC: April 17, 2012.</b></li> </ul>
<b>Chapter 480-120 WAC, Telephone companies.</b>			
Amend	480-120-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>American National Standards for Telecommunications - "Network Performance Parameters for Dedicated Digital Services - Specifications" - (ANSI 01510) - as of December 29, 1999 and reaffirmed 2008 - no change to current rule.</b></li> <li>• <b>The Institute of Electrical and Electronic Engineers (IEEE) Standard Telephone Loop Performance Characteristics - as of 2005:</b> <ul style="list-style-type: none"> <li>o No date change to current rule.</li> </ul> </li> <li>• <b>National Electrical Safety Code published by IEEE -August 1, 2011, version was adopted. There is a 2012 edition released with minor changes included after the August 2011 version:</b> <ul style="list-style-type: none"> <li>o Change to adopt 2012 edition.</li> </ul> </li> <li>• <b>Title 47 Code of Federal Regulations, Part 32 October 1, 1998:</b> <ul style="list-style-type: none"> <li>o No date change to current rule.</li> </ul> </li> <li>• <b>Title 47 Code of Federal Regulations, Part 42 October 1, 1998:</b> <ul style="list-style-type: none"> <li>o No date change to current rule.</li> </ul> </li> <li>• <b>Title 47 Code of Federal Regulations, Sections 64.2003 through 64.2009 October 1, 2011:</b> <ul style="list-style-type: none"> <li>o Change to adopted October 10, 2011.</li> </ul> </li> </ul>
<b>Chapter 480-123 WAC, Universal service.</b>			
Amend	480-123-999	Adoption by reference.	1. Adoption by reference dates changed as follows: <ul style="list-style-type: none"> <li>• <b>The Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service:</b> <ul style="list-style-type: none"> <li>o Change to adopt January 1, 2012, version.</li> </ul> </li> </ul>

**Note****1. 49 C.F.R. Part 171, General Information, Regulations, and Definitions - Effective: October 5, 2012:**

- Changes effective October 5, 2012: 77 F.R. 60935: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the hazardous materials regulations (HMR).

**2. 49 C.F.R. Part 172, Hazardous Materials Table, etc. - Effective October 5, 2012:**

- Changes effective December 28, 2011: 76 F.R. 81400: This rule corrects errors in the pictorial display of labels, eliminates references to transitional

provisions that were previously removed from the HMR, clarifies shipping paper amendments, corrects an editorial error, and extends the effective date of certain shipping paper amendments adopted in the July 20, 2011, final rule.

- Changes effective June 25, 2012: 77 F.R. 37984: This rule incorporates provisions contained in certain widely used or longstanding rail special permits that have general applicability and established safety records.
- Changes effective July 25, 2012: 77 F.R. 37983: This rule incorporates rail special permits into the HMR.

- Changes effective October 5, 2012: 77 F.R. 60935: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR.

**3. 49 C.F.R. Part 173, Shippers General Requirements for Shipments and Packages - Effective: October 5, 2012:**

- Changes effective October 1, 2011: 77 F.R. 60056: C.F.R. corrections to part 173 - Shippers—General Requirements for Shipments and Packagings.
- Changes effective December 28, 2011: 76 F.R. 81400: This rule corrects errors in the pictorial display of labels, eliminates references to transitional provisions that were previously removed from the HMR, clarifies shipping paper amendments, corrects an editorial error, and extends the effective date of certain shipping paper amendments adopted in the July 20, 2011, final rule.
- Changes effective January 1, 2012: 76 F.R. 82175, 76 F.R. 82177, 76 F.R. 82178: This rule responds to administrative appeals, provides clarifications, and corrects typographical and other minor errors adopted in an international harmonization final rule published January 19, 2011 (HM-215K; 76 F.R. 3308).
- Changes effective January 5, 2012: 77 F.R. 429: This clarification provides further guidance on Pipeline and Hazardous Materials Safety Administration's (PHMSA) policy that it will only accept fireworks approvals applications from fireworks manufacturers or their designated agents and grant approvals only to manufacturers of fireworks devices.
- Changes effective February 21, 2012: 77 F.R. 429: Clarification on the PHMSA Division 1.1 Fireworks Approvals Policy.
- Changes effective July 1, 2012: 77 F.R. 22509: This rule amended the HMR to require closures of inner packagings containing liquids within a combination packaging intended for transportation by aircraft to be secured by a secondary means or, where a secondary closure cannot be applied or it is impracticable to apply, permit the use of a leak-proof liner.
- Changes effective October 5, 2012: 77 F.R. 60935: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR.

**4. 49 C.F.R. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs - October 5, 2012:**

- Changes effective July 3, 2012: 77 F.R. 26473: The department amended certain provisions of its drug testing procedures for 6-acetylmorphine (6-AM), a unique metabolite of heroin.
- Changes effective October 3, 2012: 77 F.R. 60318: This rule adopts as final, without change, a May 4, 2012, interim final rule (IFR) which no longer requires laboratories and medical review officers

(MRO) to consult with one another regarding the testing for the presence of morphine when the laboratory confirms the presence of 6-acetylmorphine (6-AM). Also, laboratories and MROs will no longer need to report 6-AM results to the Office of Drug and Alcohol Policy and Compliance (ODAPC).

**5. 49 C.F.R. Part 375, Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations - Effective October 5, 2012:**

- Changes effective May 15, 2012: 77 F.R. 25373: FMCSA harmonizes its regulations with a recent Surface Transportation Board (STB) order that requires certain information about household goods motor carrier liability to appear on the estimates and bills of lading that carriers must provide to individual shippers.
- Changes effective August 20, 2012: 77 F.R. 36934, 77 F.R. 36935: The FMCSA amended the regulations governing the transportation of household goods to remove an obsolete requirement related to collect calls, resolve ambiguities, and reduce a regulatory burden on household goods motor carriers.
- Changes effective October 1, 2012: 77 F.R. 59823, 77 F.R. 59824: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**6. 49 C.F.R. Part 382 - Controlled Substance and Alcohol Use Testing - October 5, 2012:**

- Changes effective February 22, 2012: 77 F.R. 1039: The FMCSA corrected a final rule that appeared in the Federal Register on January 30, 2012 (77 F.R. 4479), which amended the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive commercial motor vehicles (CMVs) under any circumstances.
- Changes effective October 1, 2012: 77 F.R. 59825: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**7. 49 C.F.R. Part 383 - Commercial Driver's License Standards; Requirements and Penalties - Effective October 5, 2012:**

- Changes effective January 3, 2012: 76 F.R. 75486: FMCSA and PHMSA amended the Federal Motor Carrier Safety Regulations (FMCSRs) and the HMR to restrict the use of hand-held mobile telephones by drivers of CMVs.
- Changes effective May 21, 2012: 77 F.R. 24127: This rule amended § 383.73 by revising paragraph (o)(1)(iii)(E).
- Changes effective May 24, 2012: 77 F.R. 30919: Compliance date for the May 9, 2011, final rule: States must be in compliance with the requirements in subpart B of Part 384 (49 C.F.R. Part 384) by July 8, 2014.

- Changes effective October 1, 2012: 77 F.R. 59825: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**8. 49 C.F.R. Part 385 - Safety Fitness Procedures - Effective October 5, 2012:**

- Changes effective February 27, 2012: 76 F.R. 81134: FMCSA revises the hours of service (HOS) regulations to limit the use of the thirty-four hour restart provision to once every one hundred sixty-eight hours and to require that anyone using the thirty-four hour restart provision have as part of the restart two periods that include 1 a.m. to 5 a.m. It also includes a provision that allows truckers to drive if they have had a break of at least thirty minutes, at a time of their choosing, sometime within the previous eight hours.
- Changes effective May 8, 2012: 77 F.R. 26989: In this document, the Federal Communications Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support, Report and Order (Order), released on November 18, 2011.
- Changes effective May 14, 2012: 77 F.R. 28450, 77 F.R. 28454: This final rule rescinded the final rule published on April 5, 2010, entitled "Electronic On-Board Recorders for Hours-of-Service Compliance" and amended by a September 13, 2010, technical amendment, in response to a decision of the Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule.
- Changes effective May 24, 2012: 77 F.R. 30919: Compliance date for the May 9, 2011 final rule: States must be in compliance with the requirements in subpart B of Part 384 (49 C.F.R. Part 384) by July 8, 2014.
- Changes effective October 1, 2012: 77 F.R. 59825, 77 F.R. 59826: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**9. 49 C.F.R. Part 390 - Safety Regulations, General - Effective October 5, 2012:**

- Changes effective January 3, 2012: 76 F.R. 75487: FMCSA and PHMSA amended the FMCSR and the HMR to restrict the use of hand-held mobile telephones by drivers of CMVs.
- Changes effective February 27, 2012: 76 F.R. 81134: FMCSA revises the HOS regulations to limit the use of the thirty-four hour restart provision to once every one hundred sixty-eight hours and to require that anyone using the thirty-four hour restart provision have as part of the restart two periods that include 1 a.m. to 5 a.m. It also includes a provision that allows truckers to drive if they have had a break of at least thirty minutes, at a time of their choosing, sometime within the previous eight hours.

- Changes effective February 27, 2012: 76 F.R. 81186: FMCSA corrects the HOS final rule published on December 27, 2011 (76 F.R. 81143).
- Changes effective May 21, 2012: 77 F.R. 24130, 77 F.R. 24133: This rule amended § 383.73 by revising paragraph (o)(1)(iii)(E).
- Changes effective June 12, 2012: 77 F.R. 34852: FMCSA eliminates the requirement for drivers operating intermodal equipment (IME) to submit—and intermodal equipment providers (IEP) to retain driver vehicle inspection reports (DVIR) when the driver has neither found nor been made aware of any defects in the IME.
- Changes effective October 1, 2012: 77 F.R. 59827, 77 F.R. 59828: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**10. 49 C.F.R. Part 391 - Qualification of Drivers - Effective October 5, 2012:**

- Changes effective December 16, 2011: 77 F.R. 70661: The FMCSA amends its regulations to keep in effect until January 30, 2014, the requirement that interstate drivers subject to the commercial driver's license (CDL) regulations and the federal physical qualification requirements must retain paper copies of their medical examiner's certificate. Interstate motor carriers are also required to retain copies of their drivers' medical certificates in their driver qualification files.
- Changes effective January 3, 2012: 76 F.R. 75487: FMCSA and PHMSA amended the FMCSR and the HMR to restrict the use of hand-held mobile telephones by drivers of CMVs.
- Changes effective January 12, 2012: 77 F.R. 1891: The FMCSA amends its December 3, 2011, final rule that restricted the use of hand-held mobile telephones by drivers of CMVs. This technical amendment only affects an FMCSA regulation. The purpose of this rule is to correct a clerical error.
- Changes effective February 22, 2012: 77 F.R. 1039: FMCSA corrected a final rule that appeared in the Federal Register on January 30, 2012, (77 F.R. 4479), which amended the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive CMVs under any circumstances.
- Changes effective February 29, 2012: 77 F.R. 4483: The FMCSA amends the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to drive CMVs under any circumstances. The rule also corrects inaccurate uses of the term "actual knowledge."
- Changes effective May 21, 2012: 77 F.R. 24130, 77 F.R. 24133: This rule amended § 383.73 by revising paragraph (o)(1)(iii)(E).



**11. 49 C.F.R. Part 392 - Driving of Commercial Motor Vehicles - Effective October 5, 2012:**

- Changes effective January 3, 2012: 76 F.R. 75487: FMCSA and PHMSA amended the FMCSRs and the HMR to restrict the use of hand-held mobile telephones by drivers of CMVs.

**12. 49 C.F.R. Part 393 - Parts and Accessories Necessary for Safe Operation - Effective October 5, 2012:**

- Changes effective September 5, 2012: 77 F.R. 46638, 77 F.R. 46639: The FMCSA amended the requirements regarding brake readjustment limits in the FMCSRs. This rule amends the readjustment limits, clarifies their application, and corrects an error in cross-referencing a Federal Motor Vehicle Safety Standards. This rule responds to a petition for rule making from the CVSA.
- Changes effective October 1, 2012: 77 F.R. 59828: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**13. 49 C.F.R. Part 395 - Hours of Service of Drivers - Effective October 5, 2012:**

- Changes effective February 27, 2012: 76 F.R. 81186, 81187, 81188: FMCSA revises the HOS regulations to limit the use of the thirty-four hour restart provision to once every one hundred sixty-eight hours and to require that anyone using the thirty-four hour restart provision have as part of the restart two periods that include 1 a.m. to 5 a.m. It also includes a provision that allows truckers to drive if they have had a break of at least thirty minutes, at a time of their choosing, sometime within the previous eight hours.
- Changes effective February 27, 2012: 77 F.R. 7544: FMCSA corrects the HOS final rule published on December 27, 2011, (76 F.R. 81143). This correction notice corrects the amendatory language or guidance to legal editors of the C.F.R. on the proper codification of the December 27, 2011, rule. This notice does not change, in any manner, the regulatory text.
- Changes effective May 14, 2012: 77 F.R. 28451: This final rule rescinded the final rule published on April 5, 2010, entitled "Electronic On-Board Recorders for Hours-of-Service Compliance" and amended by a September 13, 2010, technical amendment, in response to a decision of the Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule.
- Changes effective June 5, 2012: 77 F.R. 33098: FMCSA announced revised [revision of] its regulatory guidance to clarify the applicability of the "Oil-field operations" exceptions in 49 C.F.R. 395.1(d) to the "Hours of Service of Drivers" regulations, and requests comments on the revision.
- Changes effective October 1, 2012: 77 F.R. 59828: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**14. 49 C.F.R. Part 396 - Inspection, Repair and Maintenance - Effective October 5, 2012:**

- Changes effective May 14, 2012: 77 F.R. 28451: This final rule rescinded the final rule published on April 5, 2010, entitled "Electronic On-Board Recorders for Hours-of-Service Compliance" and amended by a September 13, 2010, technical amendment, in response to a decision of the Court of Appeals for the Seventh Circuit that vacated the April 2010 final rule.
- Changes effective June 12, 2012: 77 F.R. 34852: FMCSA eliminates the requirement for drivers operating IMEs to submit—and IEPs to retain DVIRs when the driver has neither found nor been made aware of any defects in the IME.

**15. 49 C.F.R. Part 397 - Transportation of Hazardous Materials - Effective October 5, 2012:**

- Changes effective October 1, 2012: 77 F.R. 59828: This final rule makes technical corrections throughout Title 49 C.F.R. subtitle B, chapter III.

**16. 49 C.F.R. Part 174, Carriage by Rail - Effective: October 5, 2012:**

- Changes effective July 25, 2012: 77 F.R. 37985: The Pipeline and Hazardous Materials Safety Administration amended the HMR to incorporate provisions contained in certain widely used or long-standing rail special permits that have general applicability and established safety records.

**17. 49 C.F.R. Part 178, Specifications for Packagings - Effective: October 5, 2012:**

- Changes effective October 5, 2012: 77 F.R. 60935: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR.

**18. 49 C.F.R. Part 179, Specifications for Tank Cars - Effective: October 5, 2012:**

- Changes effective July 25, 2012: 77 F.R. 37985, 37986: The Pipeline and Hazardous Materials Safety Administration amended the HMR to incorporate provisions contained in certain widely used or long-standing rail special permits that have general applicability and established safety records.
- Changes effective October 5, 2012: 77 F.R. 60935: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR.

**19. 49 C.F.R. Part 209, Railroad Safety Enforcement Procedures - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24418, 24419: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**20. 49 C.F.R. Part 213, Track Safety Standards - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24419: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**21. 49 C.F.R. Part 214, Railroad Workplace Safety - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24419: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**22. 49 C.F.R. Part 217, Railroad Operating Rules - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24420: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**23. 49 C.F.R. Part 218, Railroad Operating Practices - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24420: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**24. 49 C.F.R. Part 219, Control of Alcohol and Drug Use - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24420: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**25. 49 C.F.R. Part 220, Railroad Communications - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24420: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**26. 49 C.F.R. Part 221, Rear-End Marking Device - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24420: To comply with the Federal Civil Penalties Inflation

Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**27. 49 C.F.R. Part 225, Railroads Accidents/Incidents - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24421: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.
- Changes effective June 25, 2012: 77 F.R. 26704: This rule corrects minor errors in 77 F.R. 24416.

**28. 49 C.F.R. Part 228, Hours of Service of Railroad Employees - Effective: October 5, 2012:**

- Changes effective December 30, 2011: 76 F.R. 67087: To carry out a 2008 congressional rule-making mandate, FRA is creating regulations prescribing minimum safety and health requirements for camp cars that a railroad provides as sleeping quarters to any of its train employees, signal employees, and dispatching service employees (covered-service employees) and individuals employed to maintain its right of way.
- Changes effective June 25, 2012: 77 F.R. 26704: Made corrections to final rule.

**29. 49 C.F.R. Part 234, Grade Crossing Signal System Safety - Effective: October 12, 2012:**

- Changes effective August 13, 2012: 77 F.R. 35190, 35191: This final rule requires certain railroads to establish and maintain systems that allow members of the public to call the railroads, using a toll-free telephone number, and report an emergency or other unsafe condition at highway-rail and pathway grade crossings.
- Changes effective June 25, 2012: 77 F.R. 24422: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**30. 49 C.F.R. Part 239, Passenger Train Emergency Preparedness - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24422: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**31. 49 C.F.R. Part 240, Qualification and Certification of Locomotive Engineers - Effective: October 5, 2012:**

- Changes effective June 25, 2012: 77 F.R. 24422: To comply with the Federal Civil Penalties Inflation

Adjustment Act of 1990, FRA adjusted the aggravated maximum penalty that it will apply when assessing a civil penalty for a violation of a railroad safety statute, regulation, or order under its authority.

**32. ANSI Z308.1-2009, American National Standard for Minimum Requirements for Workplace First Aid Kits - Effective: October 5, 2012:**

- Changed title to American National Standard for Minimum Requirements for Workplace First Aid Kits and Supplies.

**33. ANSI/ISEA 207-2011 - American National Standard for High-Visibility Public Safety Vests - Effective: October 5, 2012:**

- New version now in print (2011).

**34. 49 C.F.R. Part 175 - Carriage by Aircraft - Effective: October 5, 2012:**

- Effective date: January 1, 2012: 76 F.R. 82178: This rule responds to administrative appeals, provides clarifications, and corrects typographical and other minor errors adopted in an international harmonization final rule published January 19, 2011. (HM-215K; 76 F.R. 3308.)
- Effective date: October 5, 2012: 77 F.R. 60935: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR.

**35. 49 C.F.R. Part 176 - Carriage by Vessel - Effective: October 5, 2012:**

- Effective date: January 3, 2012: 76 F.R. 82178: This rule responds to administrative appeals, provides clarifications, and corrects typographical and other minor errors adopted in an international harmonization final rule published January 19, 2011. (HM-215K; 76 F.R. 3308.)

**36. 49 C.F.R. Part 177 - Carriage by Public Highway - Effective: October 5, 2012:**

- Changes effective January 3, 2012: 76 F.R. 75485: FMCSA and PHMSA amended the FMCSRs and the HMR to restrict the use of hand-held mobile telephones by drivers of CMVs.

**37. 49 C.F.R. Part 180 - Continuing Qualification and Maintenance of Packages - Effective: October 5, 2012:**

- Changes effective July 25, 2012: 77 F.R. 37987, 37990, 37991: PHMSA amended the HMR to incorporate provisions contained in certain widely used or longstanding rail special permits that have general applicability and established safety records.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE

OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO David W. Danner, Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, AND RECEIVED BY February 4, 2013.

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

Reasons Supporting Proposal: The commission adopts by reference several parts in Titles 18, 40, 47 and 49 of the Code of Federal Regulations (C.F.R.) and other state rules and national standards. This adoption package will make commission rules consistent with current published versions of federal rules, reflect the most current versions of the national safety standards and correct typographical, grammatical, and punctuation errors.

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

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

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

Name of Agency Personnel Responsible for Drafting: Jing Roth, Regulatory Analyst, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1291; Implementation and Enforcement: David W. Danner, Executive Director and Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, (360) 664-1208.

November 19, 2012

David W. Danner

Executive Director and Secretary

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

(1) The commission adopts the version in effect on ~~(September 30, 2011)~~ October 5, 2012, for 49 C.F.R. Parts 171, 172 and 173.

(2) This publication is referenced in WAC 480-14-250 (Insurance requirements).

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

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version in effect on April 1, ~~((2014))~~ 2012.

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

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

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

(a) The commission adopts the version in effect on ~~((September 30, 2014))~~ October 5, 2012.

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

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

AMENDATORY SECTION (Amending General Order No. R-533, Docket No. TC-020497, filed 6/8/06, effective 7/9/06)

**WAC 480-30-900 ((General requirements for) Interstate operations.** (1) **General requirements:** No passenger transportation company may operate any motor vehicle or combination of motor vehicles over the public highways of this state in interstate commerce unless the company has:

(a) Obtained the appropriate operating authority from the Federal Motor Carrier Safety Administration (FMCSA) if operating as a registered carrier;

(b) Obtained valid insurance as required by FMCSA; and

(c) Registered(~~;~~

(i) ~~With a base state as required by 49 C.F.R. Part 1023, if operating as a registered carrier; or~~

(ii) ~~With the commission if operating as a registered exempt carrier; and~~

(d) ~~Paid the annual Washington state registration fee for each vehicle))~~ with the commission and paid fees as required by the Unified Carrier Registration (UCR) program or any successor program as required by the laws and rules of FMCSA.

(2) **Applicable laws and rules:**

(a) When conducting interstate operations, registered ~~((and registered exempt))~~ carriers and the motor vehicles they

operate must comply with the laws and rules that apply to interstate operations.

(b) When conducting Washington intrastate operations, registered ~~((and registered exempt))~~ carriers and the motor vehicles they operate must comply with the laws and rules that apply to intrastate operations.

AMENDATORY SECTION (Amending General Order No. R-533, Docket No. TC-020497, filed 6/8/06, effective 7/9/06)

**WAC 480-30-910 ((Registered)) Interstate carrier((s)) fees.** ~~(((1) Single state registration system. Washington participates in the base state insurance registration program established in 49 U.S.C. § 11506 and 49 C.F.R. Part 1023. To register as a registered carrier in interstate commerce within the state of Washington, you must register with a base state, pay the appropriate fee for any motor vehicles operated within Washington state, and show proof of insurance.~~

~~(2) Passenger carriers based outside of Washington state. Any passenger carrier whose base state, as defined in federal regulation, is a state other than the state of Washington, must register with that state and carry a legible receipt in each motor vehicle operated within the state of Washington showing base state registration, payment of the appropriate per vehicle fee, and proof of insurance.~~

~~(3) Washington-based passenger carriers. Any passenger carrier whose base state, as defined in federal regulation, is Washington state, must register for interstate operations as follows:~~

~~(a) Between August 1 and November 30 of each year, each Washington-based interstate passenger carrier must apply to the commission to register for the following year, on forms provided by the commission.~~

~~(b) The registering passenger carrier must state the number of motor vehicles to be operated in each participating state, provide other required information, such as proof of insurance, and submit the registration fee established by that state for each motor vehicle.~~

~~(c) Within thirty days after receiving the registration fee and application, the commission will provide to the carrier a receipt or receipts showing, at a minimum, the carrier's name and address, its USDOT permit number, and the names of the states for which it is registered.~~

~~(d) The passenger carrier must place a receipt or an authorized copy in each motor vehicle for which it has paid the required fee.~~

~~(e) Any Washington-based passenger carrier that begins interstate operations in a state for which it has not registered may register for that state at any time, stating the number of motor vehicles to be operated in each state and submitting the required information and registration fee for each motor vehicle. The commission will provide a new receipt, if the passenger carrier has not previously registered, or supplemental receipt, if it has registered, showing the states for which the motor carrier has registered.)~~ A carrier operating under interstate authority issued by the Federal Motor Carrier Safety Administration (FMCSA) or its successor agency must register with the commission and pay fees as required by the Uni-

fied Carrier Registration (UCR) program or any successor program as required by the laws and rules of FMCSA.

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version in effect on April 1, ~~((2014))~~ 2012.

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

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

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

(a) The commission adopts the version in effect on ~~((September 30, 2011))~~ October 5, 2012.

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

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

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version in effect on April 1, ~~((2014))~~ 2012.

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

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

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

(a) The commission adopts the version in effect on ~~((September 30, 2011))~~ October 5, 2012.

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

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

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version in effect on ~~((September 30, 2011))~~ October 5, 2012.

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

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

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

(a) The commission adopts the version in effect on ~~((September 30, 2011))~~ October 5, 2012.

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

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

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

(a) The commission adopts the version in effect on ~~((September 30, 2011))~~ October 5, 2012.

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

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

(4) **ANSI/ISEA 207-~~((2006))~~ 2011 - American National Standard for High-Visibility Public Safety Vests** is published by the American National Standards Institute.

(a) The commission adopts the version in effect on ~~(September 30, 2011)~~ October 5, 2012.

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

(c) Copies of ANSI/ISEA 207-~~(2006)~~ 2011 - American National Standard for High-Visibility Public Safety Vests are available from Global Engineering Documents in Englewood, Colorado.

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version in effect on April 1, ~~(2011)~~ 2012.

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

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

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

(a) The commission adopts the version in effect on ~~(September 30, 2011)~~ October 5, 2012.

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

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

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

(a) The commission adopts the version in effect on ~~(September 30, 2011)~~ October 5, 2012.

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

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

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

**WAC 480-75-999 Adoption by reference.** In this chapter, the commission adopts by reference all or portions of regulations and standards identified below. They are available

for inspection at the commission branch of the Washington state library. The publications, effective dates, references within this chapter, and availability of the resources are as follows:

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

(a) The commission adopts the version in effect on October 1, ~~(2011)~~ 2012.

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

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

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

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

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

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

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

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

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

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

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

(5) The commission adopts **API RP standard 1117 Third Edition**, July 2008, including errata December 2008 and errata 2 (August 2009).

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

(b) Copies of API standard 1117 Third Edition, July 2008, including errata December 2008 and errata 2 August 2009 are available from API, <http://www.api.org/>. It is also available for inspection at the commission.

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version in effect on April 1, ((2011)) 2012.

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the version of the above regulations that were in effect on October 1, ((2011)) 2012, except the following sections are not adopted by reference: 191.1, 192.1(a), 193.2001(a), 199.1. In addition, please note that in WAC 480-93-013, the commission includes "new

construction" in the definition of "covered task," as defined in 49 CAR § 192.801 (b)(2).

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

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

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

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

(d) Copies of Title 18 Code of Federal Regulations are available from the U.S. Government Online Bookstore,

<http://bookstore.gpo.gov/>, and from various third-party vendors.

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

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

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

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

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

(a) The commission adopts the ((2011)) edition published on January 24, 2012.

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

(c) The National Electrical Code is a copyrighted document. Copies are available from the NFPA ((11)) at 1 Batterymarch Park, Quincy, Massachusetts 02169, or at internet address <http://www.nfpa.org/>.

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

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

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

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

**AMENDATORY SECTION** (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(a) The commission adopts the ((2011)) edition published on January 24, 2012.

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

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

(2) National Electrical Safety Code (NESC).

(a) The commission adopts the 2012 edition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Occupational Safety and Health Administration (OSHA) Standard at 29 C.F.R. 1910.269.



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

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

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

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

(a) The commission adopts the version in effect on ~~((September 1, 2010))~~ April 17, 2012.

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

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

**AMENDATORY SECTION** (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

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

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

(c) The American National Standards for Telecommunications "*Network Performance Parameters for Dedicated Digital Services for Rates Up To and Including DS3 - Specifications*" is a copyrighted document. Copies are available from ANSI in Washington, D.C. and from various third-party vendors.

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

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

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

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

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

(a) The commission adopts the ~~((version in effect on August 1, 2011))~~ 2012 edition.

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

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

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

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

(b) For this publication as referenced in WAC 480-120-202 (Customer proprietary network information), WAC 480-120-146 (Changing service providers from one local exchange company to another), and any other reference in chapter 480-120 WAC except for WAC 480-120-359 and 480-120-349, the commission adopts the version of the relevant sections in effect on October 1, ~~((2010))~~ 2011.

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

(d) The ~~((2010))~~ 2011 version of C.F.R. Title 47 is available from the U.S. Government Online Bookstore, <http://bookstore.gpo.gov/>, and from various third-party vendors.

**AMENDATORY SECTION** (Amending Docket A-111722, General Order R-564, filed 2/15/12, effective 3/17/12)

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

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

(2) The commission adopts the version in effect on January 1, ~~((2011))~~ 2012.

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

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

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 480-30-920

Registered exempt carriers.

**WSR 12-24-073**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Office of the Secretary)

[Filed December 4, 2012, 2:43 p.m.]

Title of Rule and Other Identifying Information: WAC 388-02-0005(4) referencing chapter 388-526 WAC.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, AND RECEIVED BY February 4, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 388-02-0005(4) currently references chapter 388-526 WAC which will no longer exist upon adoption of the health care authority (HCA) regulations under Title 182 WAC. WAC 388-02-0005 needs to be amended to reference chapter 182-526 WAC rather than chapter 388-526 WAC.

Reasons Supporting Proposal: Accuracy in referencing regulations outside of chapter 388-02 WAC.

Statutory Authority for Adoption: RCW 34.05.353 (1)(a) and (c) and 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V, RCW 34.05.220 (1)(a) and (b).

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Conant, P.O. Box 45803, Olympia, WA 98504-5803, (360) 664-6081.

November 28, 2012

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-05-043, filed 2/10/12, effective 2/25/12)

**WAC 388-02-0005 What is the purpose and scope of this chapter?** This chapter describes the general procedures that apply to the resolution of disputes between you and the various programs within the department of social and health services (DSHS). The rules of this chapter are intended to supplement for DSHS both the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules, chapter 10-08 WAC, adopted by the office of administrative hearings (OAH).

(1) This chapter:

(a) Establishes rules encouraging informal dispute resolution between DSHS and persons or entities who disagree with its actions;

(b) Regulates all hearings involving DSHS; and

(c) Consolidates most DSHS hearing procedural rules into one chapter.

(2) Nothing in this chapter is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if you have a hearing right, including the APA and DSHS program rules or laws.

(3) Specific DSHS program hearing rules prevail over the rules in this chapter.

(4) Rules encouraging informal dispute resolution between the health care authority and persons or entities who disagree with its actions, and regulating hearings for the medical services programs established under chapter 74.09 RCW are governed by chapter ((388-526)) 182-526 WAC.

**WSR 12-24-078**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Division of Consumer Services)

[Filed December 4, 2012, 5:02 p.m.]

Title of Rule and Other Identifying Information: Check Cashers and Sellers Act, chapter 208-630 WAC. Specific sections of the rules are proposed for amendment to be consistent with the law, chapter 31.45 RCW.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sara Rietcheck, Department of Financial Institutions, 150 Israel Road S.W., Tumwater, WA 98501, P.O. Box 41200, Olympia, WA 98504-1200, AND RECEIVED BY February 5, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A definition in the rules is inconsistent with the same definition in the law. If not cured, the inconsistency may cause confusion as to what activity requires a license under the act.

Reasons Supporting Proposal: Clarifying the law in the rules.

Statutory Authority for Adoption: Chapter 43.320 RCW and RCW 31.45.200.

Statute Being Implemented: Chapter 31.45 RCW.

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

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8800; Implementation and Enforcement: Deborah Bortner, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-0511.

December 4, 2012  
Deborah Bortner, Director  
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 09-24-089, filed 12/1/09, effective 1/1/10)

**WAC 208-630-110 What definitions are required to understand these rules?** The definitions in RCW 31.45.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

"ACH" means automated clearing house, an electronic network for financial transactions that processes credit and debit transactions.

"Act" means chapter 31.45 RCW.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.

"Agent" for purposes of RCW 31.45.079 means a person who (~~is~~ pursuant to the terms of a written agreement and for compensation,) engages in the business of making small loans by perform((s))ing small loan agent services on behalf of a((n)) licensee or exempt entity.

"Annual percentage rate" or "APR" means the cost of credit expressed as a yearly rate, determined in accordance with the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.), and Regulation Z (12 C.F.R. Part 226 et seq.), as amended.

The Office of the Comptroller of the Currency (OCC) has developed an APR calculator (APRWIN) that licensees may download and use without charge. APRWIN is available on the OCC's web site at <http://www.occ.treas.gov/aprwin.htm>.

"Board director" means a director of a corporation or a person occupying a similar status and performing a similar function with respect to an organization, whether incorporated or unincorporated.

"Check" means the same as defined in RCW 62A.3-104(f) and, for purposes of conducting the business of making small loans, includes other electronic forms of payment, including stored value cards, internet transfers, and automated clearing house transactions.

"Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

"Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose.

"Close of business" for the purposes of RCW 31.45.86 and these regulations means the actual time a licensee closes for business at the location from which a small loan was originated or 11:59 p.m. Pacific Time, whichever is earlier.

"Default" means:

(1) The borrower's failure to repay a small loan in compliance with the terms contained in the small loan agreement or note; or

(2) Failure to pay any installment plan payment within ten days after the date upon which the installment was scheduled to be paid. See WAC 208-630-556 (12)(b).

"Department" means the department of financial institutions.

"Exempt entity" means a person described in RCW 31.45.020 that is engaged in the business of making small loans.

"Gross monthly income" means an individual's total personal income earned during a month prior to any taxes or deductions.

"Installment plan" is a contract between a licensee and borrower that provides that the loaned amount will be repaid in substantially equal installments scheduled on or after a borrower's pay dates and no less than fourteen days apart.

"Investigation" means an examination undertaken for the purpose of detecting violations of chapter 31.45 RCW or these rules or obtaining information lawfully required under chapter 31.45 RCW or these rules.

"License" means a license issued by the director to engage in the business of check cashing or check selling under the provision of chapter 31.45 RCW.

"Loaned amount" means the outstanding principal balance and any fees authorized under RCW 31.45.073 that have not been paid by the borrower.

"Monetary instrument" means a check, draft, money order or other commercial paper serving the same purpose.

"Paid" means that moment in time when the licensee deposits the borrower's check, accepts cash, or initiates an ACH withdrawal from the borrower's account for the full amount owed on a valid small loan. If the borrower's check is dishonored and returned unpaid by the borrower's bank, the loan is not paid. If an ACH authorization is denied, the loan is not paid.

"Payday advance lender" or "payday lender" means a licensee under this chapter who has obtained a small loan endorsement under RCW 31.45.073.

"Payday advance loan," "payday loan" or "deferred deposit loan" means the same as a small loan.

"Postdated check" means a check delivered prior to its date, generally payable at sight or on presentation on or after the day of its date. "Postdated check" does not include any promise or order made or submitted electronically by a borrower to a licensee.

"RCW" means the *Revised Code of Washington*.

"Small loan" or "loan" means a loan of up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

"Small loan agent services" (~~means all or substantially all of the following services~~) include but are not limited to:

- (1) Marketing and advertising small loans;
- (2) Taking small loan applications;

- (3) Assisting customers in completing small loan documentation;
- (4) Providing required disclosures;
- (5) Disbursing small loan proceeds;
- (6) Collecting small loans;
- (7) Retaining documents and records; and
- (8) Making reports.

"State" means the state of Washington.

"Unsafe or unsound financial practice" means any action, or lack of action, the likely consequences of which, if continued, would materially impair the net worth of a licensee or create an abnormal risk of loss to its customers.

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

AMENDATORY SECTION (Amending WSR 09-24-089, filed 12/1/09, effective 1/1/10)

**WAC 208-630-610 What accounting and financial records must I keep?** You must maintain the records in this section for at least two years.

(1) Generally, you must maintain the books, accounts, records, papers, documents, files, and other information relevant to the business.

((+))2) Specifically, you must maintain ((A)) a record of transactions conducted. The record may be limited to the following provided a sufficient audit trail is available through records obtainable from your bank of account:

- (a) Amount of the checks cashed;
- (b) Amount of fees charged for cashing the check;
- (c) Amount of cash deducted from the transaction for the sales of other services or products;
- (d) Amount of each check or monetary instrument sold;
- (e) Amount of fee charged for the monetary instrument;
- (f) Amount of small loan proceeds disbursed;
- (g) Fees charged for small loans;
- (h) Amount of payments on small loans received;
- (i) Origination date of each small loan;
- (j) Termination date of each small loan;
- (k) Installment plan payment due dates;
- (l) Application information as required by rule;
- (m) Records of cash payments made on small loans. The record must include the date of the payment, the borrower's name, the amount of cash received, the identity of the employee who received the cash, and whether the payment was applied to a loan or installment plan;

(n) Copies of receipts required under WAC 208-630-505.

((2))3) You must maintain a cash reconciliation summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation must separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, cash disbursed in making small loans, cash received in payment of small loans and bank cash deposits.

((3))4) You must keep records of the disbursement of loan proceeds and the receipts of all payments on the balance of small loans. The receipt must indicate the date of the trans-

action, the borrower's name, amount of receipt, and whether the disbursement or payment is on a loan or installment plan.

(5) You must maintain copies of any service agreements with agents.

AMENDATORY SECTION (Amending WSR 09-24-089, filed 12/1/09, effective 1/1/10)

**WAC 208-630-740 What obligation do I have to assure that employees comply with the laws and rules regarding payday lending and check cashing and selling?** Because you are responsible for their actions, including violations, ((Y))you must ensure that any employee or person who engages in business on your behalf (including agents) under the authority granted by chapter 31.45 RCW has sufficient understanding of the law and rules to assure compliance.

AMENDATORY SECTION (Amending WSR 09-24-089, filed 12/1/09, effective 1/1/10)

**WAC 208-630-8201 What business practices are prohibited?** (1) It is a violation of this chapter for any person subject to this chapter to:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(b) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(c) Directly or indirectly obtain property by fraud or misrepresentation;

(d) Make a small loan to any person physically located in Washington through use of the internet, facsimile, telephone, kiosk, or other means without first obtaining a small loan endorsement;

(e) Accept applications or referrals from an agent or pay for any services provided on your behalf by an agent without first verifying that the agent is licensed under the act.

((e))f) Directly or indirectly refer a borrower, or encourage a borrower, to use the services of more than one payday lending business that results in an amount outstanding that exceeds the loan limit in RCW 31.45.073;

((f))g) Directly or indirectly structure a loan transaction in order to exceed the loan limit in RCW 31.45.073;

((g))h) Directly or indirectly pressure a borrower to not enter into an installment plan;

((h))i) Directly or indirectly pressure an applicant or borrower to borrow more money than they state they want; provided, it is not a violation of this subsection for a licensee to inform a borrower as to his or her maximum loan amount or that he or she is subject to a limit of eight loans per twelve-months period;

((i))j) Cash a postdated check before the date written on the check except as permitted by RCW 31.45.070(2);

((j))k) Make a loan without processing it through the data base system except as specifically allowed in law or rule;

((k))l) Refuse to provide an installment plan to a borrower who has notified you before the due date of the small loan that they cannot pay the small loan; and

((l))m) Engage in any device or subterfuge to evade the requirements of the act.

(2) In addition to any other penalties, any transaction in violation of subsection (1)(d) of this section is uncollectible and unenforceable.